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Neely's Parliamentary Practice

BY
BISHOP THOMAS B. NEELY

REVISED EDITION

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CONTENTS

PAGE

PREFACE 7

PART I

PARLIAMENTARY PRINCIPLES

CHAPTER I. A Parliamentary Body 11
CHAPTER II. Parliamentary Practice 13

PART II

THE PARLIAMENTARY ASSEMBLY

CHAPTER I. The Composition of Parliamentary Bodies 17
CHAPTER II. The Gathering 19
CHAPTER III. The Organization 20
CHAPTER IV. The Officers 24
CHAPTER V. The Quorum 31

PART III

PARLIAMENTARY PROCEDURE

CHAPTER I. Introduction of Business 39
CHAPTER II. The Discussion 45
CHAPTER III. The Decision (Voting) 52
CHAPTER IV. Nominations and Elections 64

PART IV

PARLIAMENTARY QUESTIONS

CHAPTER I. Motions 71
CHAPTER II. General Classification of Motions 74

PAGE

CHAPTER III. Specific Classification of Motions.... 76

CHAPTER IV. Subsidiary Motions..... 78

1. Amendments, 78. 2. Commitment, 83. 3. Postponement to a Day Certain, 85. 4. Indefinite Postponement, 86. 5. Previous Question, 87. 6. To Lay on the Table, 91.

CHAPTER V. Incidental Questions..... 102

1. Consideration, 102. 2. Questions of Order (Appeal), 103. 3. Reading of Papers, 106. 4. Withdrawal of Motions, 108. 5. Suspension of the Rules, 110.

CHAPTER VI. Privileged Questions..... 112

1. To Adjourn, 112. 2. To Fix the Time to which to Adjourn, 114. 3. To Take a Recess, 115. 4. Call for the Orders of the Day, 116. 5. Questions of Privilege, 118.

CHAPTER VII. Miscellaneous Questions..... 123

1. The Call of the House, 123. 2. Parliamentary Inquiries, 124. 3. Renewing a Motion, 124. 4. Filling Blanks, 125. 5. Nominations, 126. 6. Division of the Question, 127. 7. Reconsideration, 128. 8. To Rescind or Repeal, 135.

PART V

PARLIAMENTARY PRECEDENCE

CHAPTER I. Precedence of Motions..... 139

PART VI

COMMITTEES AND COMMISSIONS

CHAPTER I. Committees..... 151

CHAPTER II. The Committee of the Whole..... 163

CHAPTER III. The Quasi-Committee..... 171

CHAPTER IV. Commissions..... 175

PART VII

SPECIAL METHODS

CHAPTER I. Progressive Action on Bills..... 179

CHAPTER II. Proceedings in Bicameral Bodies..... 185

PART VIII

MEETINGS, LAWS, AND BUSINESS

PAGE
CHAPTER I. Meetings and Sessions 191
CHAPTER II. Charters, Constitutions, By-Laws, and Rules 194
CHAPTER III. Order of Business 197

PART IX

RIGHTS, DUTIES, AND POWERS

CHAPTER I. Rights and Duties of Members 203
CHAPTER II. Powers of a Parliamentary Body 205

PART X

ECCLESIASTICAL BODIES

CHAPTER I. Parliamentary Practice in Ecclesiastical Bodies 211

PART XI

Miscellanea 217

PART XII

Condensed and Ready Reference Table of Motions. 220, 221
Appendix 223
Index 231

PREFACE

In 1883, thirty-one years ago, I wrote a little book entitled Parliamentary Practice. The work had a large circulation in this land and beyond, and, with one revision, it has continued to circulate through the years and has been recognized with favor by competent authorities down to the present time.

Doubtless it still would have a place among books on this subject, but, after the lapse of so many years, the publishers have asked me to prepare a larger work, making the statements more complete, introducing new matter, and bringing the presentation of the subject down to the present date. The task has been finished, and a really new book has been made, which will supplant the little treatise of thirty years ago.

The intention has been to adapt the work for use in all bodies which should proceed in a parliamentary way, whether they are simple or elaborate, high or humble, such as legislative bodies, ecclesiastical gatherings, or literary, scientific, or debating societies.

As the first book was indorsed by skilled parliamentarians, and adopted as a guide by various bodies, it is hoped that this larger work will even more fully meet the practical needs of individuals and of parliamentary organizations.

Thomas B. Neely.

Philadelphia, Pa., July 18, 1914.

THE REVISED EDITION

The former editions of this work contained a presentation of general parliamentary practice for all kinds of deliberative and legislative bodies, and as such, the book has been recognized and used in the Senate of the United States and down through many other bodies, varying in nature and rank. In this edition the revision has been by addition and not by change in principles.

T. B. N.

June 12, 1925.

PART I

PARLIAMENTARY PRINCIPLES

CHAPTER I. A Parliamentary Body

CHAPTER II. Parliamentary Practice

CHAPTER I

A PARLIAMENTARY BODY

A **Parliament** is literally a talking body, and the title comes from the French word *parlement*, which has its root in the French *parler* (par-la), which means to speak, talk, or converse. From it a number of words have come into the English language, as, for example, the word "parley," to speak with another; "parlor," a room for speaking or conversing; and "parliament," a meeting for the purpose of parleying; hence a "parliament" means "a speaking body."

In English it was at one time spelled "parlement," and, again, "parlament," but now it is spelled "parliament" to correspond to a Latin form, *parliamentum*, but is usually pronounced "par'-lĭ-ment," with the short *i* sound, and the accent on the first syllable; or "par'-le-ment," with the short *e* sound. Some have been inclined to pronounce the *ia* as two syllables—"par'-le-ah-ment," or to run the *i* and *a* together, but, though phonetic, this form does not prevail.

A **parliamentary body,** however, is more than a mere talking body, for it talks in a formal manner and with a serious purpose. It is a consultative body which comes together to consider, discuss, deliberate upon, and decide matters presented and to do these things in an orderly and dignified way.

The title "parliament" is frequently applied to the highest legislative body of a nation, as, for example, the British Parliament. But many bodies are parliaments without the use of that specific title. Thus the Congress of the United States of America and other legislative assemblies are parliaments, as are the deliberative and legislative gatherings of religious denominations, though

they may be called Conferences, Conventions, Assemblies, Synods, Associations, or be known by some other distinguished title. They all meet to deliberate and decide, and they recognize the fact that they are subject to some form of lawful procedure.

The British Parliament goes back many centuries and has gone forward through a most interesting evolution. "The precursors of the Parliament were the Witenagemot in the Anglo-Saxon period and the National Council in the Norman and Angevin periods" (Century Dictionary). As the English Parliamentarian, May, says: "The present constitution of Parliament has been the growth of many centuries. Its origin and early history, though obscured by the remoteness of the times and the imperfect records of a dark period in the annals of Europe, have been traced back to the free councils of our Saxon ancestors. The popular character of these institutions was subverted, for a time, by the Norman Conquest; but the people of England were still Saxons by birth, in language, and in spirit, and gradually recoverd their ancient share in the councils of the state. Step by step the legislature has assumed its present form and character; and after many changes its constitution is now defined by—

'The clear and written law—the
deep-trod footmarks
Of ancient custom.'"

(Thomas Erskine May: Law, Privileges, Proceedings, and Usages of Parliament; London, 3d Edition, p. 1.)

With the spread of the British Empire, Britain has carried parliamentary principles over the whole world, and well deserves the title "Mother of Parliaments," and no country has received greater benefits therefrom than the United States of America, for the source of American parliamentary law is the British Parliament.

CHAPTER II

PARLIAMENTARY PRACTICE

Parliamentary Practice is the mode of procedure which should regulate the proceedings of a deliberative body. It is a development which has come from the experiment of the ages, and has gradually formed, during the course of many centuries, out of the experience of parliamentary bodies, and has received general recognition, so that general parliamentary law resembles in its nature and history the common law of the nation.

Parliamentary Law, as known among English-speaking peoples, can, in general, be traced to the British Parliament, and to some extent to earlier Anglo-Saxon times. It was brought to America by the British colonists and used by the colonial assemblies, the Continental Congress, and later by the Congress of the United States of America and by other deliberative bodies; but, because of different conditions and new experiences, the British practice has been modified and developed into American parliamentary practice, or American parliamentary law, for the settled practice has been regarded as having the force of law in deliberative and legislative assemblies.

Each deliberative body is under this *common parliamentary law,* but, because of peculiarities in organization or in the immediate circumstances, each body may make certain *special rules* of procedure to meet its own peculiar needs; but in all other respects it is governed by general parliamentary practice, as it is entirely if it has not adopted any special rules.

Because certain bodies have adopted special rules which are intended to meet their own peculiar needs, that does not make these rules and practices part of general parliamentary law which applies generally everywhere. Com-

mon parliamentary law is broader and grows out of principles of general application. So general parliamentary law is more comprehensive than the special usage of any particular body. Even some things in the usage of the United States House of Representatives may not be common parliamentary law.

It is evident that parliamentary law is as necessary in a deliberative body as common and statute law is necessary in the state. It means a mutual understanding as to what and how things can be done, is a mutual protection, and is promotive of harmony.

It is a mistake to imagine that parliamentary usage is intended to interfere, or that it does interfere, with the rights of the individual member or of the body as a whole. It does not interfere with the right doing of things, but facilitates their doing. Instead of being in the way, it clears the way and makes easier the progress. Instead of overriding the individual, it protects the individual member and promotes the best interests of the whole body. It exists for the purpose of protecting the body as a whole and at the same time defending the individual, so that the majority shall not do a wrong even to the smallest minority, though composed of only a single one. It is based on principles of justice, logic, and equity, so that the strictest compliance with parliamentary law makes for the defense of the minority and for justice to all. So to speak, its motto is "Fair Play"—fairness to the body, fairness to the individual, and fairness to every proposition which is offered.

As Jefferson says in his Manual of Parliamentary Practice: "And whether these forms be in all cases the most rational or not is really not of so great importance. It is much more that there shall be a rule to go by than what that rule is; that there may be a uniformity of proceeding in business not subject to the caprice of the Speaker or captiousness of the members. It is very material that order, decency, and regularity be preserved in a dignified public body. *2 Hatsel, 149.*"

PART II

THE PARLIAMENTARY ASSEMBLY

CHAPTER I. The Composition of Parliamentary Bodies

CHAPTER II. The Gathering

CHAPTER III. The Organization

CHAPTER IV. The Officers

CHAPTER V. The Quorum

CHAPTER I

THE COMPOSITION OF PARLIAMENTARY BODIES

Parliamentary bodies vary in their **composition** as well as in their essential nature and purpose.

Some bodies are purely voluntary, while others do, and must exist by a legal mandate which must be obeyed. So parliamentary bodies may be classified as *legal or voluntary*, though it does not follow by any means that the voluntary gathering is an illegal assembly.

Because of these fundamental differences in nature there are corresponding differences in the *right of membership*, and there may also be resultant differences in the character of the organization whether elaborate or simple, whether pre-determined in whole or part by a superior or fundamental authority, or according to the pleasure of the body itself. A *mass meeting* called to consider some political question, something of civic interest relating to the public welfare, something in the interest of science, or religion, or relative to any one of innumerable things would be a voluntary assembly.

The conception of such a meeting might be in the mind of a single individual, and he could issue the call. Nobody would be under any obligation to attend, but anyone would be a member who responded to the call, and, presenting himself, corresponded to the description of those called or invited in the call.

But "Other Assemblies are constituted under a call by a competent authority without special warrant of law, though under its sanction, in such a way that each member of them, though chosen by a voluntary assembly, must present credentials in order to prove himself a member. *Political conventions* to make nominations are

examples of this sort of assembly" (T. B. Reed's Rules, p. 18).

Legal bodies exist under the specific requirement of some form of legal command. Thus the Congress of the United States of America exists under the command of the Constitution of the United States, which contains the mandate of the sovereign people of the nation. State Legislatures convene under the order and provisions of State Constitutions. Boards of directors, or trustees, exist and act under legally issued charters. Conferences, assemblies, conventions, convocations, consistories, synods, and similar religious bodies, exist under the laws of the several denominations. These are formal and legally required bodies.

Membership in a legally required parliamentary body may be made up by election, by virtue of official rank already possessed, or by individual selection made by a superior authority. In all such cases *credentials* of some kind are required, and sometimes they are required even in a voluntary assembly.

Members may be of *Various Classes,* and they should be described in the law of the body, or should be recognized according to the usage of well-established common parliamentary practice. Special members may be elected by the body itself. Thus there may be *Honorary Members.* This form of membership is conferred as an honor. Though an honorary member such a person is a member with certain rights and privileges. Thus he sits in and with the body and has a right to speak in its deliberations, but, ordinarily, he is not considered to have a right to vote as an ordinary way.

CHAPTER II

THE GATHERING

The second thing necessary for the constitution of a parliamentary body is the **coming together** of its component parts. Without this assembling it would not be a deliberative body and it could not transact any business.

Those claiming membership should be able to substantiate their claim. If it is a voluntary gathering in response to a general call, then correspondence with the terms of the invitation will be sufficient. If it is a meeting provided for by law, as a convention composed of delegates, or a Legislature made up of representatives, then the parties must be able to show that they have been duly elected or selected.

This is usually done through formal certificates duly signed by officers who conducted the election, or by the parties who made the selection. From the certificates, or other sufficient evidence, the list of members, called the roll, is to be made. Then there must be the presence of the proper number of rightful members to transact the legitimate business of the body.

The *Bar of the House* is the line within which the parliamentary body sits and which separates the members and officials of the body from nonmembers. Sometimes it is a literal bar, or material barrier, while sometimes it is merely a temporary mark indicating the division beyond which nonmembers have no right to pass. This may be fixed on a simple motion that reserves sufficient space to accommodate the membership.

CHAPTER III

THE ORGANIZATION

A PARLIAMENTARY body must not only have members assembled, but it must also have these assembled members duly *organized* before it can properly proceed to the transaction of business.

This principle holds at all times, for a parliamentary body to perform its functions is not unorganized or disorganized, but must be, and continue to be, properly organized.

Some one must *call* upon the assembled members to be *in order*, for orderliness is the constant requisite from the beginning to the end, and because the call is preliminary to the transaction of business.

Before the regular organization of a voluntary body which has come together in response to a call, the responsibility for the guidance of the body at the moment of convening rests upon those by whom it was called. One of those who issued the invitation should call the meeting to order and nominate, or request the meeting to *nominate a chairman*. Nominations of this nature do not need a second, but frequently such a nomination is seconded. The gentleman who called the meeting to order puts the motion to vote and, if the nominee is elected, invites him to take the chair.

So meetings of a *voluntary* character, for example, where an invitation has been sent out for those interested in a particular object to meet at a certain time and place, it is the custom for one who signed the call to arise at the announced time and ask those who have assembled to please be in order. Attention having been secured, he may briefly refer to the nature of the call and the purpose of the meeting, and propose that some one whom he names

act as chairman. Or he may ask, "*Whom will you have as chairman?*" Some one being nominated, the person who has called the meeting to order will put the question on the nomination and declare the result of the vote. Or, if more than one person is named, he takes the vote, beginning with the first nominated. The meeting having chosen its *chairman*, the person so selected will go to the front and, facing the meeting, will, perhaps after a few words of thanks or explanation, begin the performance of his duty as chairman. Or the one who called the meeting to order sometimes continues in the work of organizing until a *secretary* has been selected.

If this course is not pursued, then the chairman just elected calls for the election of a secretary, and afterward states the object of the meeting, or calls upon one of those interested to do so. Then, with a chairman to preside, and a secretary to keep the record of the proceedings, the meeting is ready for the transaction of such business as may properly come before it.

The first thing, then, may be the calling of the *roll* to ascertain who are members and who are present.

This may be regarded as a *temporary* organization, to be followed by one of a more formal and permanent character, but in many of the smaller bodies it may be deemed quite sufficient.

In formal bodies meeting under legal mandate, there is usually some one *designated* in the law to call the meeting to order. Thus, in a religious body it may be the secretary of the former Conference, or the clerk of the former Assembly or Convention, whose duty it is to begin the work of organizing the assembled members. In the Senate of the United States the Vice-President of the United States, under the provision of the Constitution, is the President of the Senate, so that at the opening the body itself is not expected to elect a President.

Various religious bodies have the presidency determined by law in advance of the convening of the body. Thus in some episcopal churches the constitutional law makes a

bishop the presiding officer, and in such a case the body itself does not elect its president, the presidency being determined by the Constitution of the Church.

In the HOUSE OF REPRESENTATIVES of the United States, the clerk of the preceding house makes up the list of the members-elect of the new house from the certificates of election sent him. At the time for the opening of the session he takes his place at the clerk's desk and, calling the members to order, he reads, or causes to be read, the list of members which he has prepared. Having done so, and the proper number appearing to be present, he announces that the first business is the election of a Speaker and proceeds to conduct the election.

The Speaker having been elected, he takes the chair, and after the oath of office has been administered to him he is prepared to perform his work as the presiding officer of the House of Representatives.

In some bodies, for example, political conventions, and similar gatherings, made up of delegations, there are very commonly two organizations, namely, a preliminary or *temporary* organization, and a *permanent organization* which is the perfected organization.

For political conventions there is usually a committee of the party which prior to the meeting arranges for the temporary organization and has some one to suggest as the temporary chairman.

The main *object of the temporary organization* is to determine or suggest in a formal way the preliminaries leading to the complete organization of the body. One of the principal purposes is to give opportunity to ascertain in an orderly way who are *entitled to membership*.

Those claiming membership present their certificates of election, or *credentials*, to the meeting or to some properly designated party, and these credentials must be read, examined, and passed upon in some way satisfactory to the body.

Having been verified and found to be in proper form and duly attested, they are read, or reported upon, by

some authorized party or are designated in some formal manner. From the certificates the *roll* of members is made up, and in the roll names are arranged *alphabetically* according to the initials of the individual names, and, wherever there are groups of delegates they may be arranged alphabetically according to the section or body from which they come. In some bodies the roll is made up in both ways.

For the orderly examination of the certificates of election, or appointment, as the case may be, it is customary to create a *committee on credentials* to receive, examine, and report upon their validity. Then when the report is adopted that will determine who are entitled to have their names on the roll and be recognized as members.

Sometimes the right of an individual to membership is *challenged.* So there may be two sets of claimants, and the dispute must be settled by determining who are the rightful claimants and hence entitled to membership. This requires investigation and study which is usually done by a committee which reports to the body for final decision, and sometimes a sitting delegate is unseated, and a claimant is given his place, or the challenge may not be sustained, in which case the sitting delegate continues in his place.

The **permanent organization** is the completed organization in form to transact the business of the body. Sometimes a committee of the temporary organization is appointed on permanent organization, and such a committee may report nominations of officers for the permanent organization. Sometimes such a committee may suggest that the officers of the temporary organization be the permanent officers, or this may be done on the motion of any member.

CHAPTER IV

THE OFFICERS

Organization implies not only members, but also *officials*, just as an army requires officers. With members assembled and properly officered, the assembly becomes a parliamentary body, ready to perform the work of such an organization. These officers have their several duties, but they must also have a degree of authority which is recognized and respected.

In the first place, the parliamentary organization must have *a head*, who shall preside over, guide, and control the body when assembled and during the transaction of business. Without such a head there must be confusion, anarchy, and chaos. This head is known under different *titles* in different bodies. Sometimes he is styled the President, the Speaker, the Moderator, or the Chairman. In the British House of Commons and in the United States House of Representatives, as well as in certain State Assemblies, the presiding officer is called the Speaker. In some religious assemblies the prevailing title is that of Moderator. Societies of various kinds vary the title, but all are essentially equivalent in a parliamentary sense.

The presiding officer has various *duties*. First, he is to preside when the body is in session. At the proper time for the opening of the sitting he is to take the chair and call the assembly to order, and then to guide and direct the body in its work, and, on occasion, to control it.

The principal duties of the president are to preserve order in business and debate, and to see that the rules of the body and the principles of general parliamentary usage, and the special rules of the body are observed. It is his place to decide questions of order. In doing so,

when he makes a decision he should not use the pronoun "I"—"I decide"—but should say, "The Chair decides," "The Chair is of the opinion," etc. His personality is swallowed up by the fact that he is the chairman of the meeting.

The presiding officer holds a position of vast responsibility, and his very *bearing* has very much influence in creating the tone of the body. If he is nervous and irritable the assembly will partake of his morbid condition. If he is calm and well-poised the members will share the same spirit. He usually makes the atmosphere of the body. The bearing of the presiding officer should therefore manifest self-possession and display dignity. As he takes the reins of presidential authority, the house should perceive that he is, unoffensively, master of the situation, and that he possesses a power of command that the body will willingly respect.

The **gavel** is the president's symbol of authority and the instrument by which he may gain attention and secure order. It is a small mallet with which the presiding officer may rap for order. It is to be used when needed, but to be used judiciously. A quick, sharp tap may be, and ought to be, sufficient to gain attention, while a dull hammering sound may only add to the confusion.

If the presiding officer is a member of the body, he does not lose his *rights* as a member because he is the presiding officer, but he uses them somewhat differently. Thus he retains the member's right to discuss a question, but he has no right to engage in the debate while he is actually in the chair, though sometimes he may be permitted to make an informal remark from the chair, or, if the body permits, more lengthy remarks. To debate like other members he should be out of the chair. So he may leave the chair to another, and then he may enter into the discussion just as freely as any other member.

If a member, the presiding officer may call a member to the chair, while he absents himself, or while as a mere

member he engages in the discussion or takes part in other business of the body, but the appointment is limited in point of time by the adjournment of the meeting. The presiding officer, however, can resume the chair at his pleasure. The chairman, if a member, votes when the *vote* is by ballot, or on the yea and nay call, but ordinarily he does not vote otherwise unless his vote would change the result of the vote. On a yea and nay vote his name is the last called.

The president, if he is not a member of the body, has none of the voting rights of a member. He has no right to make or second a motion or to discuss questions, or even to give a casting vote, unless a higher law specifically gives him the right to give the casting vote, as, for example, the Vice-President of the United States Senate, who, under the Constitution of the United States, is the President of the Senate of the United States, and who, by the same authority, is empowered to break a tie vote. Thus the Constitution reads: "The Vice-President of the United States shall be President of the Senate but shall have no vote, unless they be equally divided."

Some bodies formally designate the members whom they desire to take the chair whenever the regular presiding officer for any reason is obliged to leave it. Such a substitute in the United States Senate is called the President *pro tempore*. In the British House of Commons he is called the Deputy Speaker or Deputy Chairman.

Many bodies have a *vice-president*, who acts as a substitute for the president in his absence, or who may take the chair when the presiding officer wishes to vacate it in order that he may act as a member on the floor, or attend to any other duty. The vice-president, when acting as president, has all the powers and responsibilities of the president. This would be the case in the absence, disability, or death of the regular presiding officer, as well as where there was a temporary necessity.

Next to the president the most important officer is the *clerk* or *Secretary*.

It is absolutely necessary that there be made and kept a reliable record of the proceedings and transactions of the body. It is of great importance that these records be preserved for reference, for at any time there may be occasion to ascertain just exactly what was done on a given day on some particular matter, and how it was done. Not only does it make interesting history, but it may, indeed, be a matter of grave legal consequence. So some one must prepare and call the roll and assist in taking and recording votes, and caring for written and printed documents relating to subjects proposed or taken under consideration, and, in addition, there will be a multitude of details to be looked after in keeping the business in order, so that nothing be overlooked, and that time be economized. There must be some one charged with these duties, and every parliamentary body has one called a secretary, a clerk, a scribe, or who may be known by some other equivalent title, who does this work.

The clerk may, or may not be, a member of the body. In Legislatures he usually is not a member. In ecclesiastical and most other assemblies he is usually a member of the body, but this is a matter within the determination of the body itself.

The chief duty of the secretary is to make and keep a *written record* of the transactions and proceedings of the body, so that the fact and history of the transactions may be faithfully recorded and preserved for reference whenever it may be needed.

This record is sometimes called the **Journal** because it contains a record of the proceedings of the body day by day, the word being from the French *jour*, "day," *journal*, "daily," and so a daily record, an account of daily transactions or events.

Sometimes these records are called the **Minutes,** which contain a brief summary of the proceedings of the parliamentary body.

"Specifically, the minutes are the record of the proceedings at a meeting of a corporation, board, society,

church court, or other deliberative body, put in writing by its secretary or other recording officer." While the word gives the idea of a condensed memorandum, it may also suggest the minuteness or exactness of the record—a minute memorandum of what has occurred during the moments of business of the deliberative body. The chief function of the clerk, secretary, or scribe—for he may bear any one of a number of titles—is to accurately note in order what occurs during the proceedings of the day, write it out in proper form, and keep the record, which, however, does not become the legal record until it has been duly *approved* by the body itself.

The *minutes* should give a brief but sufficiently full history of the meeting to make the proceedings perfectly plain, but in them the clerk should not make any criticism, either favorable or unfavorable. It is not proper for the secretary to make comments in the minutes on what is done or said, or to make laudatory remarks upon individuals or their speeches, but in simple and direct language to state the facts as to what was proposed and what became of the proposition, what was done, by whom, and how.

Nothing proposed or done should be omitted, and all motions, whether lost or carried, with the names of the movers, should be recorded. What was lost may be of quite as much value as that which was carried and may throw a clear light upon the final result. What is done may be by rejection as well as adoption, so that, if a formal proposition is disposed of in any way, it is something done, and everything connected with the doing is to be entered. The proposition, the proposer, the attempts to dispose of it one way or another, as well as the final disposition, must be recorded.

The calling of the roll and the reading of the journal usually occur immediately after the opening of the meeting. At the proper time the presiding officer will rap with his gavel, and, having secured attention, will say: "The meeting will please be in order. The secretary (or clerk) will call the roll." And, after roll call, he may say, "The

clerk will *read the journal* of ——— session"; or, "The secretary will read the minutes of (yesterday's) session"; or, more briefly, "The minutes will be read"; whereupon the clerk, or secretary, reads the record as made in the journal or minutes. The minutes are read that the house may know what record of the proceedings has been made, and the journal is supposed to be read while the memory of the business is fresh in the minds of the members. So they listen to see whether all the occurrences have been noted and have been noted accurately.

The minutes, if incorrect, may be *corrected.* If there are omissions, they may be supplied and entered. The only question to be considered at this time is, "Are the minutes correct?" If there are errors, they should be pointed out and eliminated. But if the journal is accurate, it cannot be changed. If the minutes give a correct statement of the history of the day's proceedings, they must be approved. So the presiding officer may say: "You have heard the reading of the minutes. If there is no objection, they will stand *approved* as read." Then, pausing, and hearing no objection, he will say, "There being no objection, the minutes are approved." If there is an error, the fact should be stated, and, by common consent, the correction can be made, but, if there is a dispute as to the fact, then it may, or must, be submitted to vote. The Chair may vary the form and say: "The question is on the approval of the minutes. As many as will approve," etc.

Once the minutes have been approved by the house they are no longer merely the minutes of the secretary, but the legal record made by the body itself, and the clerk or secretary has no right to change the approved record, and, more particularly, he has no right after the body has finally adjourned.

The secretary should keep a memorandum of committees and lists of unfinished business in perfect order, so that the Chair and the house may not overlook any matter of interest to the body.

If the president, the vice-president, and the president

pro tempore are not present, it is the duty of the secretary to call the meeting to order and to temporarily preside until a chairman *pro tempore* is elected, which should be done at once, and this temporary officer may preside until a regular presiding officer appears.

The clerk needs the power of mental concentration on the business of the body, quickness of perception, and accuracy in noting and recalling facts involved in the proceedings. He should be an expert also in the details of parliamentary law.

If the body so desires, and particularly if the business is extensive or intricate, it may elect an assistant secretary or any number of *assistant secretaries*. Then where there are a number of secretaries the work is usually divided among them, so that they may lighten each other's labors. Thus sometimes there is a *Reading Clerk* who has a good voice and whose duty is to read the various bills and documents so that the entire body can hear and understand their contents. Then frequently there is a *Journal Clerk* or recording secretary whose special duty is to transcribe the daily minutes in legible and permanent form.

It may also be important for the body to elect a *Treasurer*. Indeed, if it handles money it must have a treasurer to receive and handle the funds.

The **Treasurer** is the custodian of the funds of the society, and it is his duty to pay out from the same on the order of the society, and to keep and present an accurate account of receipts and payments.

In some bodies, particularly where money is paid over by individuals at the meetings, there is a *Financial Secretary*, who receives the various items, makes a record, and passes over the gross amount received to the treasurer for safety and for disbursement. In such a case it is important for him to have the treasurer's receipt for the amounts transferred.

These are the chief officers, but there may be others, and to all such there may be assistants, according to the pleasure of the body.

CHAPTER V

THE QUORUM

With the parliamentary body properly and permanently organized, it is ready for the transaction of business, but it cannot proceed to business unless a proper number of members are present. This number requisite for the transaction of business is termed a **Quorum,** meaning "of whom," the word being part of a Latin phrase, used in old commissions to specify one or more as always to be included, as in such phrases as "*Quorum unum A. B. esse volumus*"; that is to say, "Of whom we will that A. B. be one." So the necessary number for the transaction of business in a parliamentary body is termed the quorum.

Unless there is a higher law, or superior authority, which fixes the quorum, the body itself may by rule indicate the number necessary to constitute a quorum. A quorum may be fixed by a charter or constitution. Thus the Constitution of the United States declares that "a majority of each [house] shall constitute a quorum to do business." In the British House of Commons forty members present constitute a quorum, and many bodies by rule fix a number considerably less than a majority as the quorum, in order to insure the presence of a legal number to carry on the business. In some bodies the organic law requires the presence of two thirds the total membership to make a quorum.

Where there is no rule, or no long-time usage having the force of law, or no organic law or superior authority fixing a particular number, a majority of the members constitutes the quorum, but in mass meetings held in response to a call, as many as assemble constitute a quorum, and the same is true in regard to certain eccle-

stastical Conferences, where no specific number is fixed. In the latter instances the principle is that as many as come together to confer, whether they be many or few, constitute the quorum. Usually, in such cases there is an historic reason for such a quorum.

At first the actual presence of a quorum must be *ascertained*. Usually the clerk, after calling the roll, and counting those answering to their names, reports to the presiding officer the number present, or he may say, "A quorum is present." Or the chairman may satisfy himself that there is a quorum in the house. Ascertaining the presence of a quorum of rightful members is a matter on which there has been some difference of opinion, but on which there should be no difference now.

The presence of a quorum may be ascertained by a call, the clerk or secretary *calling the roll* and the members answering "Here" or "Present." Then the count of those who have answered and have been recorded may determine that the requisite number, or quorum, is present. This method, however, has been abused by members who were actually and manifestly present refusing to make any response, and, judging from the result of the roll call, they were presumed to be not present. By their silence they prevented the proving of the presence of a quorum on the roll call.

But hearing is not the only way of determining physical presence. The eye as well as the ear may determine. Indeed, it is more reliable. The roll call simply determines who answer, while sight determines presence, which is the point to be ascertained; and the eye of the chairman is quite as reliable as the ear of the clerk.

The roll call is one way, and if the count of those who answer to their names shows a quorum that is sufficient, but the test of presence by sight may add to the number and be more reliable. So the quorum may be ascertained by actual *count* by the presiding officer, or the clerk, of the members seen to be present.

When the Hon. Thomas B. Reed, of Maine, was

Speaker of the National House of Representatives he found the progress of business greatly impeded by the refusal of some members to answer when their names were called, thus assuming that they were absent when, as a matter of fact, they were present and had been taking an active part in the debates and business. To correct this, in 1890 he resorted to the method of counting those he saw in the house, and directing the clerk to enter upon the journal as part of the yea and nay vote names of members present but not voting, thereby establishing a quorum of record, and, having thus ascertained the presence of a quorum, business proceeded. This method of counting a quorum was afterward sustained by the Supreme Court.

Speaker Reed says: "In strictness, a chairman ought not to take the chair until after the appearance of a quorum, but in practice in this country he always does" (Reed's Rules, p. 23).

Once the actual presence of a quorum has been ascertained, the business may proceed as with an *assumed Quorum*, until a member or the Chair, formally and publicly, raises a doubt as to the presumption. Then the presence of a quorum must be proved in some way. As Speaker Reed has said, "Until a member from the floor or the presiding officer raises the question of quorum, a quorum is always supposed to be present" (Reed's Rules, p. 23). But when the presence of a quorum is *challenged*, the challenge must be met and the question settled, and, since the rulings by Speaker Reed were sustained by the Supreme Court, "the point of order as to a quorum was required to be that no quorum was present and not that no quorum had voted."

"In all cases, if the number necessary to make a quorum is present, it makes no difference how many or how few actually participate in the decision. Those who sit silent are regarded as consenting to the result. Such was the recent decision of the United States Supreme Court, which decision was in accord with every decision of every

State Supreme Court which has ever passed upon the question" (Reed's Rules, p. 23).

A question has been raised as to whether a quorum is absolutely necessary *during* a *debate* on a question. Of course, no decision can be made in a parliamentary body unless the quorum is present, but as to the discussion of a question there has been a difference of opinion. In the English House of Commons the suggestion that there is no quorum halts the debate, even if a member is on the floor debating a question. In the French Chamber of Deputies a quorum is not necessary for debate. In American practice, that persisted for some time, if no one raised the point of no quorum the discussion usually proceeded, but in the United States Congress if it appears that no quorum is present the debate and all business, even the most highly privileged, must be suspended. Ordinarily, the point is not raised when nothing but the debate is in progress, but it does not follow that it could not be raised. The discussion bears upon the question to be decided, and it may be held that in order to know how to vote the members should hear the debate. Hence the Digest of the United States House of Representatives says: "As the complement to the new view of the quorum, the early theory that the presence of a quorum is as necessary during debate or other business as on a vote was revived," and, "according to the earlier and later practice of the House the presence of a quorum is necessary during debate and other business." In present practice the point of no quorum can be made while debate is in progress, and if no quorum is established, even the discussion must cease until a quorum is secured.

The lack of a quorum does not of itself adjourn the body. Even if the point of no quorum is raised, and the absence of a quorum is verified, the body may tarry a while, hoping that other members may enter, and if a quorum is despaired of the body *may adjourn* and may come together again.

The Constitution of the United States provides that "a

majority of each [of the houses of Congress] shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner, and under such penalties as each house may provide" (Article I, s 5).

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PART III

PARLIAMENTARY PROCEDURE

CHAPTER I. Introduction of Business

CHAPTER II. The Discussion

CHAPTER III. The Decision (Voting)

CHAPTER IV. Nominations and Elections

CHAPTER I

INTRODUCTION OF BUSINESS

THE proper time for convening the body having arrived, the presiding officer takes his place from which he he is to preside. Usually this is spoken of as **taking the chair.**

Having taken his place, the presiding officer calls upon the assembly to be *in order*. This he may do by tapping on the desk or table, and saying: "The house," or whatever the body is styled, "will please be in order."

Having secured quiet and attention, he will call up the first item of business, and follow with the other items in order, or, where no order has been determined upon, he may in some general way announce that the house is now ready for the transaction of business.

While the presiding officer refers to himself as "The Chair"—"The Chair observes," "The Chair is of the opinion," "The Chair rules," "The Chair decides," "The Chair declares," the members allude to the presiding officer as "The Chair," thus: "Will the Chair state?" "Will the Chair do thus and so?"

Parliamentary practice presumes that, ordinarily, matters for discussion and decision emanate from some member or members of the body, and that the discussing and deciding is done by the membership.

In some bodies communications for consideration may come from a coordinate body or from a higher or coordinate authority, but, generally speaking, only a member can introduce business, and even when propositions come through the form of message, a communication, or something requiring the action or joint action of the house, the form of business which may lead to a discus-

sion and decision by the assembly, must be introduced by a member of the body.

It is the duty of the presiding officer to *guide the business* in the sense of seeing that it is done in order and that the progress is in an orderly way.

The members introduce the business, but only one member at a time can do so. If many, or even several, could introduce business of different kinds at the same moment, it would throw the house, as well as the business, into confusion. So only one member at a time can introduce business, and only one can occupy the attention of the body at a time.

Hence, as a general principle, the presiding officer can regard only one at a time as permitted to introduce business and to occupy the attention of the house by an address.

The member who purposes to introduce business, or to make a statement to the body, must first **obtain the floor,** that is to say, secure the right to stand on the floor and speak to the house.

To obtain the right to the floor the member must secure **recognition** by the Chair. In other words, he must be recognized by the presiding officer and by him be granted the right to speak. To secure this recognition and the accompanying right, the member must at the proper time arise and **address the Chair.** Where members have regularly designated seats, the usual rule is that the member must rise in his place to address the Chair and secure recognition, but, generally, he may speak if he is in the house. To speak from his seat, or while seated, would be regarded as disorderly, and, so, he must rise or the Chair cannot recognize him. By rising the member hopes to catch the eye of the presiding officer, and by addressing the Chair in a sufficiently loud voice he hopes to catch the ear of that officer, and, at the same time, to attract the attention of the house.

The member, having arisen, addresses the Chair by *pronouncing the proper title* of the presiding officer accord-

ing to the law and usage of the body. Thus it may be "Mr. President," "Mr. Speaker," "Mr. Moderator," "Mr. Chairman," or whatever the accepted title may be, for whatever may be the technical title of the officer in that particular assembly, that is the form which must be used.

Having uttered the address to the Chair, the member pauses, remains standing, and *awaits recognition*, for though he has addressed the Chair he cannot proceed until the presiding officer formally shows that he has seen or heard, or both seen and heard, the member, and recognizes his right to occupy the floor and to proceed with what he wants to say.

The presiding officer, hearing the voice and seeing the member who has arisen, **recognizes** him, which he does by pronouncing the name of the member, "Mr. ———," or designating him in some definite way. In representative bodies the Chair may say, "The gentleman from ———," or "The member from ———," giving the name of the district or section he represents; or in the case of a United States Senator, he will say: "The Senator from ———," naming the State from which he comes. In other bodies the Chair may name the member "Mr. Jones," or "Mr. Brown from——," such and such a place, designating the locality from which the member comes. Or, again, the presiding officer may indicate the person by pointing a finger, waving the hand, or bowing or inclining his head toward the individual he recognizes. These detailed forms are determined largely by the particular nature and size of the assembly.

After recognizing the member the Chair may add "——— *has the floor*." He has the floor in a special sense, thus he stands on the floor to address the Chair, and, when recognized, he has the right to continue on the floor, and, for the time being, he is the only one so entitled.

No member has a right to make a motion, discuss a question, or address a meeting until he has thus addressed

and has thus been recognized by the chairman. Then he *has the floor*.

Having been thus recognized, the member now has permission, and the right, to proceed to make his statement or to present his proposition.

It may be that the member desires to **make a motion** or to present a resolution. Having obtained the floor, the member says: "Mr. President" (or whatever the title may be), "I move—thus and so." Whereupon another member may arise and, addressing the Chair, say, "I second the motion."

This is called *seconding* a motion. The general rule is that a motion must be seconded; that is to say, a second member must rise and, after he has duly addressed the Chair, indicate that he supports the motion, or desires its presentation, the principle being that if there is not more than one willing to have the matter considered, the house should not be expected to give precious time for its consideration.

In the House of Representatives of the United States Congress no second is required to an ordinary motion. There may be an assumed or *tacit second*, which may obviate the necessity of a formal second, and this is a growing practice.

It is the prerogative of the president to consider a motion as seconded, or, so to speak, if a member, to tacitly second it himself, if he desires, and to state the motion before a member has had time to second it. This may frequently save time, but, unless the president desires so to do, he is under no obligation to recognize a motion unless it is seconded by a member on the floor. As a motion is not properly presented to the body unless it has a second, the president and secretary and the meeting need take no notice of it whatever. The president may, however, pause a moment, and ask whether it is seconded.

In routine work the chairman may often put the question without waiting even for a motion. This saves time and does no one injustice.

The motion having been made, and formally or informally seconded, or the proposition having been duly presented, the Chair must **state the question.** This he does by saying: "It has been moved and seconded that the following motion be adopted," and reads the resolution, or hands it to the secretary to be read by him. After stating or reading the motion, the president says: "The question is on the adoption of the resolution or motion just read," or he may say: "You have heard the motion. Have you any remark to make?" or, "Remarks are in order," or use some equivalent expression.

After the chairman has thus stated the question, the subject is open to discussion, but not before.

So when the chairman has formally stated the motion or resolution before the house, the members may then enter upon its discussion, but each member must obtain the floor for debate in the same manner he would secure it for the purpose of offering a motion.

Sometimes two or more members arise at about the same moment and address the Chair, and it seems difficult to decide which one is entitled to recognition. In such a case there are a few principles by which the Chair is guided. The ordinary *rule* is for the presiding officer to give the floor to the member whose voice he first hears and whom he sees. As it is said, the "*first up*" and heard is to be recognized. When two or more address the Chair at the same time, the Chair must decide who is entitled to the floor. In such a case, the member upon whose motion the subject was brought before the body, or who presents the report, if he has not already spoken to the question, has the prior claim and should be recognized, even if another addressed the Chair before him. When two address the Chair at the same moment the presiding officer should recognize the more remote claimant on the principle that as sound travels the more distant member must have spoken first. A member who has not spoken has priority over those who have. When the chairman knows which side of the question is taken by the claimants he

may alternate between the friends and enemies of the measure, and, in justice, should give preference to the one opposed to the last speaker. If he is in doubt, the chairman can allow the meeting to decide by vote, and the one getting the largest vote will be entitled to the floor. Or, if his decision is not satisfactory, any member may call it in question, saying, that in his opinion such a member was entitled to the floor. In such a case the sense of the meeting is to be taken thereon, and the question should be first upon the name of the member announced by the presiding officer.

In the French Chamber of Deputies the member has a conceded right to have his name listed for recognition, and a similar rule prevails in the Italian Chamber. In American assemblies sometimes members send up their names or cards to the presiding officer. For this, however, there is no law. The names may be suggestive, but the Chair is under no obligation to recognize any person unless he is entitled to recognition under the general parliamentary rule of first up and first to address the Chair.

As a general principle, a member duly recognized, is entitled to the floor and cannot be deprived of his right while he is in order, and a member cannot make a motion while another has the floor, or interrupt a speaker, excepting in a few special cases, which will be cited hereafter.

CHAPTER II

THE DISCUSSION

A PARLIAMENTARY body is essentially a **talking body,** but one that meets for the purpose of talking about matters and measures in an orderly way, for the purpose of reaching a well-considered conclusion.

As a general principle, every proposition, before final settlement, has a right to a fair and full discussion on its merits. It should have a chance for its life, and, so to speak, it should have an opportunity to speak for itself, and to take the risk of being spoken against.

Another principle is that when this fundamental right of discussion is, or seems to be, overridden, it can only be done by more than the ordinary majority vote, for it interferes with a natural right and overcomes some restraint or provision intended to protect the right of debate. Hence the motion that cuts off debate requires at least a two-thirds vote.

A parliamentary body is not only a talking body, but it is also a **deliberative** body. (Deliberate is from the Latin, *deliberatus,* p. p. of *deliberare,* "to deliberate," *delibrare,* "to weigh.") The body is to listen and weigh what is said—to ponder what is heard. It is not only to deliberate, but also to be *deliberate.* It should not be hasty in reaching conclusions and formulating decisions, for it is faulty in a deliberative body to rush to a decision, and not to give sufficient time for debate and deliberation.

It is a serious error, generally speaking, to, intentionally or unintentionally, prevent discussion and deliberation, for it interferes with the rights of the question and the rights of individuals. Impatience with discussion is not a wholesome condition. Time is a valuable element in the consideration of any subject, therefore during the

debate the body should be as free as possible from undue excitement and precipitancy. Calm is necessary while considering, and especially when about to render a decision, and a rush to sweep men from their judicial attitude should be avoided and, if necessary, resisted.

The **number of times** a member may speak during the discussion of a question is usually regulated by the rules of the body. Common parliamentary law permits a member to speak only once on the same question until all others who desire to speak have spoken. The principle is that each member has a right to express his views and an equal right with any other member. If, however, no other member arises to speak, a member who has spoken may speak again. Thus, if a member offers to speak again, and no one signifies formally a desire to occupy the floor, the Chair will permit the member to proceed, and it is not the duty of the Chair to ask whether others wish to speak. That is the business of the members generally to look after their own interests and claim the floor when they want it. If, however, the member speaking again has been recognized, and has begun his speech, it is too late to make a point against his right and take him off the floor. The point of having spoken must be made immediately, and it cannot be maintained unless another member is claiming recognition for the purpose of speaking. To claim the floor as an afterthought simply to keep the member from speaking again violates parliamentary courtesy. The ruling in the United States House is that: "It is too late to make the question of order that a member has already spoken if no one claims the floor until he has made some progress in his speech." Starting to speak and going on is progress.

When, however, in the course of the parliamentary proceedings the subject reaches a **new stage,** or a new question bearing upon it is raised, although the same general subject is before the house, a member who has spoken on the subject has a *right to speak again.* Thus one who has spoken on the original proposition can speak

on each amendment or substitute, on a motion to commit or postpone, or any debatable question bearing upon the original proposal. Each stage of the consideration is as a new question, no matter how slightly different it may seem.

The time permitted for a speech is usually fixed by a special rule of the body. The body has power to do this, and it is usually deemed necessary to secure such an allotment of time as to give an equal chance to all the members and to protect their equal right to speak on the question.

The time varies according to the nature of the bodies. In some small assemblies of a less important character speeches are sometimes limited to ten or fifteen minutes, and in instances where the time is precious and the work is pressing the limit has been fixed at five or even three minutes, a time which ordinarily does not give opportunity for discussion, and hardly for the expression of an opinion. Such limitation under ordinary circumstances is absurd. Time enough for statement and argument, and even appeal, is necessary for intelligent consideration.

Even when there is a limit placed upon the time of a speaker, the body has power to extend the member's time according to its pleasure, though sometimes it may require a suspension of a rule.

The right of one having the floor to grant portions of time to others than the one recognized as having the floor is permitted in some bodies, but it cannot be recognized as a part of common parliamentary law, for, as Speaker Reed says, notwithstanding the custom in the United States House of Representatives of thus distributing the hour, "This, however, is in derogation of parliamentary law" (Reed's Rules, p. 162).

The member is entitled to speak up to the limit, where the body limits the time of the member who has the floor, but it is for his own use in which to express himself, and not to assign it to another who has not in due form secured the floor. If the member cannot, or does not, occupy all

his time, the house and its members have a right to the balance of the time which the member has not used. The house does not make him use all his time, but simply gives him permission to speak up to the limit, and that is all. If he does not see fit to embrace the opportunity, the unused portion is not his to give away, but belongs to the house.

The body has a right also to **close** the **debate** or to fix a time when the discussion shall close. This is the practice in most bodies, though the closure was not enforced in the Senate of the United States. There, however, a common agreement can be made as to when the debate shall end and the decision be reached. An **order limiting or closing debate** can be adopted so that, at the time specified, all discussion upon it shall cease. As a body can limit the time of a speaker, it can also *extend his time*. So the meeting can also *extend the limits of the debate*.

A constant rule in debate is that the remarks must be **relevant.** The member having the floor must confine his remarks to the subject and the question before the house. He cannot speak on another matter. His speech must be pertinent and he must speak to the question. Strict as is this rule, nevertheless it allows more latitude than a novice might suppose, for sometimes there is a real relevancy, that on the instant might not be recognized by all, but, with patience, would soon appear. When, however, a speaker is plainly off the subject, he is out of order and it may be insisted that he keep to the question before the house or resume his seat.

Certain **proprieties** in debate should always be observed. Thus, politeness and good manners must always prevail, and improper expressions and offensive personalities must always be avoided. In the discussion the speaker must not only confine himself to the question before the body, but he should debate the question and not the individual on the other side. The clean and dignified debater discusses the subject rather than his opponent. To indulge in personalities may seem smart and

provoke applause, but it is beneath the dignity of a noble parliamentarian, is a waste of time, and mars the harmony of the house.

The member addresses the Chair, and, if, in debate, he has occasion to refer to a member he does not name, but characterizes him by some descriptive expression, as, for example, "The member from ———" or "The gentleman on the other side." This makes for dignity and decorum.

Disorderliness in debate is not to be tolerated. If anyone objects, a speaker guilty of improper remarks can proceed only by vote of the body.

When a member has the floor he is entitled to *freedom from interruption* while he is speaking, and it is a breach of order to interrupt the member except in a few instances of an extremely urgent nature. Sometimes one may rise to ask a question and the Chair may ask: "Will the member permit the interrogation?" or "Will the member permit himself to be interrogated?" and the member on the floor may or may not insist upon his right to proceed without interruption, and the Chair must sustain his right.

In the United States House of Representatives "a member may interrupt by addressing the Chair for permission of the member speaking; but it is entirely within the discretion of the member occupying the floor to determine when and by whom he shall be interrupted."

When one has the floor it is the duty of the other members to give respectful attention. Jefferson's rule was: "No one is to disturb another in his speech by hissing, coughing, spitting, speaking, or whispering to another; not stand up to interrupt him; nor to pass between the Speaker and the speaking member, nor to go across the house, or to walk up and down it, or to take books or papers from the table or write there." Again, Jefferson says, the member is "to be heard through. A call for adjournment, or for the order of the day, or for the question, by gentlemen from their seats, is not a motion. . . . Such calls are themselves breaches of order."

When a member is debating a question he must have

regard for the rights and amenities of the house, and the member must respect the rights of the one who is speaking and, at the same time, the proprieties of the body. Members interrupting by ejaculations or audible remarks from their seats are guilty of gross disorder, and an attempt in that way to break the force of a speaker's remarks should be rebuked by the Chair and resented by the house.

Another form of speaking which is not classed as debate is that which may come under the head of parliamentary inquiries or **informal remarks,** but care must be taken that it does not have the effect of debate or become debate.

As an example of this method, Speaker Reed says: "If a member desires to know what will be the effect of a certain action if taken by the assembly, or desires to know how to proceed to accomplish a certain result, he rises and says: 'Mr. Chairman, I rise to a parliamentary inquiry.' The Chairman: 'The gentleman will state his inquiry' " (Reed's Rules, p. 206). "While a judicious presiding officer in most cases confines the assembly as near as may be to the formal rules of debate, it often happens that the settlement of points of procedure and of the terms of an amendment can be facilitated by a tolerance of informal remarks and suggestions which bring opposing members to an agreement. This, however, cannot be permitted when any member objects" (Reed's Rules, pp. 162, 163).

The **renewal of debate** on a question is possible even after the discussion was presumed to have ceased. Discussion can be renewed at any time up to the putting of the negative, and even after the result has been announced, if it be found that, before the negative was put a member had addressed the Chair, but was not recognized. He then is entitled to the floor. In such a case the question would stand as if no vote had been taken, for the rights of each and every individual must be respected. If, however, the house had previously by a closure adopted by a formal vote ended the debate, then this rule per-

mitting a renewal of the debate before the negative has been taken does not apply.

A parliamentary body should not be restive while the discussion is going. One great reason for the existence of the body is that there may be debate and a free expression and comparison of views. Every member has a right to speak, and as long as he keeps within the law he should be heard respectfully. The time of the house cannot be used to greater advantage. Lack of freedom in debate is an evil and tends to produce many forms of wrong.

CHAPTER III

THE DECISION (VOTING)

After the discussion, if any has been had, comes the **decision.** This is the outcome of the deliberation. The time for reaching a decision may be determined by the cessation of debate, or by a formal order of the house bringing the debate to a close. If no one rises to speak, or the chairman thinks the debate has ended, he asks, "Are you ready for the question?" If then no one rises to debate it, he proceeds to **put the question.**

Cries from the floor for "Question! Question!" or "Vote! Vote!" do not legitimately close debate. Such demonstrations constitute a form of disorder which should be repressed. For members to utter such cries when a member is speaking, or is struggling to get the floor, is an expression of bad manners and an unjust interference with the guaranteed rights of the member and the order of the house. In such a case the member should insist on his rights and persist in speaking, and the Chair should defend him from such disorderly intimidation. If it is desired that a decision be reached, there are orderly ways for bringing this about in due time.

The decisions of a parliamentary body are usually ascertained by voting, but the judgment of the body may be ascertained in two ways: first by a vote; and, second, by consent, the latter method being employed particularly in matters of routine, or on questions of little moment. Thus, the chairman may expedite the business by not even taking a vote when the matter is one of ordinary routine. But he can only proceed in this way if no one objects, and the proper method will be for him to say: "If there is no objection, such will be considered the action of the meeting." Thus, when **papers** are presented which

it is usual to refer to certain committees, he may say, "If there is no objection, the paper will be referred to such a committee." After pausing a moment, and there being no objection, he may say, "It is so referred."

The usage of **general consent,** implied in no objection being made, is a great saving of time, and is just as effective as though a motion were formally made and carried. Nevertheless, this should seldom be carried beyond routine business.

On the general principle that the majority should rule, ordinarily a mere majority, that is to say, at least one more than half the number, or the greater number, determines a question. This may mean a majority of the members present and voting, or a majority of the whole number of the body, as the law may determine. If, however, there is no specific rule, then a mere majority of those present and voting is sufficient to carry a measure.

Present parliamentary usage requires more than the vote of a mere majority in a few exceptional cases, which will be mentioned in detail hereafter. Thus some questions require an affirmative vote of two thirds, the general principle being that more than a mere majority should be required where some natural or general right is interfered with; for example, on a proposition which is intended to cut off debate, because it interferes with the general principle of the right of a proposition to be considered and discussed.

The **form of voting** varies. Sometimes it is by voice, sometimes by show of hands, sometimes by counting hands, and sometimes by a rising vote, when the members are counted as they stand, or by some other method as the law or the meeting may direct.

Of the various forms the simplest and most common is the voice vote, which appeals to the ear, the method of determination being that of sound.

The second form, just mentioned, appeals to the eye, and the vote is by the uplifted hand, or it may be by the members rising and standing, the Chair deciding by his

impression of the preponderance of the hands or human forms on the one side or the other. This form of voting is preferable because of its silence, and is more reliable because it is not as easy to duplicate hands as it is to add force to the voice.

The third method is by count, when the members on the one side and then the other rise and stand until counted. Sometimes the end is reached by counting the uplifted hands, but the better and more reliable way is to have the members rise and be counted.

The fourth method is to have the members, first on one side and then on the other, pass between and be counted by tellers.

The fifth method combines both count and record of each individual vote by calling for and taking the yeas and nays. This also is by sound, not however *en masse*, but through the answer of each individual.

The sixth form of voting is by ballot. The presiding officer puts the question, or, in other words, puts the question to the assembly for its vote. Having clearly stated the question, or having caused it to be read by the clerk, or secretary, the Chair puts the question distinctly and in an impartial manner. Ordinarily, the form used by the Chair will be something like the following: "The question is on the adoption of the motion, or resolution, which you have just heard read; as many as are in favor of its adoption will say aye." The ayes having voted, he will then say, "As many as are of a contrary opinion will say no," or "All opposed will say no." The Chair, judging the comparative vote, will announce the result, stating that the motion is carried or lost, as the case may be. If he thinks the ayes are in the majority he says, "The ayes appear to have it." Then pausing, to see if anyone expresses doubt, and none being raised, he says, "The ayes have it, and the motion is agreed to (is carried, or prevails)" or *vice versa*, if he thinks the noes have it. Or he may say: "The motion is carried—the resolution is adopted"; or "The ayes have it—the resolution is

adopted"; or "The noes have it—the motion is not agreed to"; or similar expressions may be used.

Where a hand-vote is customary the Chair may say: "Those in favor of the resolution will raise the right hand," and "Those opposed will manifest the same sign."

The Chair forms his judgment from the volume of sound, or the apparent number of hands. This is an approximate estimate, however, and may not be absolutely accurate; but, if not publicly questioned, it is usually sufficient. If the Chair is in doubt, or finds it difficult to determine on which side is the majority judging from the blended voices in unison, he may say: "The Chair is in doubt. All in favor will rise and stand until counted," and, then, "All opposed will rise and stand until counted." The clerk having counted, reports the result, and the Chair announces accordingly that the motion prevails or that it is lost.

If the Chair announces the result of the approximate vote, and a member in his own mind questions the decision of the Chair, or thinks it uncertain, he can compel a further test. This he can do, not by crying, "Doubted! Doubted!"—for the exclamation is improper and out of order—but by arising and calling for a **division of the house.** Thus he may say, "Mr. President! I call for a division of the house!"

Then the Chair will say: "A division is called for. As many as are in favor of (whatever the question may be) will arise and stand until they are counted." The count on the affirmative side having been taken, the Chair will say, "As many as are opposed will rise and stand until counted." The count having been reported, the Chair will announce the result, which may, or may not, confirm the previous judgment of the Chair.

The presiding officer may count, the clerk may count, or the chair may appoint tellers, in which case they should be selected from both sides of the question. Usually, in societies the secretary does the counting, and, in large bodies, the secretaries divide the house into sections, each

secretary counting a section and reporting to the chief, who adds the sectional reports and gives the total.

This count vote on a division of the house is more accurate than a decision from the sound of voices or the sight of uplifted hands, and the real purpose is not to take a new vote, but to verify the former vote by accurately ascertaining how the members did vote when they said aye or no, or raised their hands. Hence on the count vote members are expected to vote just as they did before, though this is not always the case.

Motions or resolutions of special respect, especially in memory of deceased persons, are usually adopted by the formality of a rising vote. In such cases it is seldom necessary, or in place, to put the negative. Votes requiring a certain proportion—for example, two thirds—must necessarily be count votes.

Voting by tellers. A vote by tellers may be had in the United States House of Representatives upon the demand of at least one fifth of a quorum. If the vote by tellers is ordered, the Chair appoints two tellers, one from each side of the question, and they take their places at the end of the main aisle before the desk of the presiding officer and face each other. Then the members file between them, those on the affirmative first, and then those of the negative side, and march toward the rear of the room. The tellers make a record of the numbers which have passed, and report to the presiding officer, who announces the result. This is one form of the count vote.

Voting by **yeas and nays.** Sometimes a vote by **yeas and nays** is taken. The object of calling the *yeas and nays* is usually to place the names on record so that it will be known how each man voted. At other times it is used as a dilatory motion, and is made for the purpose of consuming time. In Congress one fifth of the members present can order the vote to be taken by *yeas* and *nays*. In some bodies it is ordered on the call of a single member. Societies should have a rule stating what small minority may order the *yeas* and *nays*, as it is sometimes a defense

of the minority. In any meeting a majority vote can order the *yeas* and *nays*. When the **yeas and nays** have been ordered, the presiding officer will put the question in a form similar to the following: "As many as are in favor of the adoption of the resolution will, when their names are called, answer *yea* (or yes); those opposed will answer *nay*, or (no). The secretary will call the roll."

The roll is then called, and each member, as his name is called, rises and answers *yes* or *no*, which answer is noted by the clerk. The president's name should be called last. When the roll call is ended the clerk reads the names of those who voted in the affirmative, and afterward those who voted in the negative. Errors may then be corrected. The clerk then gives the number voting on each side to the Chair, who announces the result. The list of affirmative and negative voters is recorded in the minutes. "The vote on the question of demanding the *yeas* and *nays* is always taken by a rising vote, unless on a motion tellers are ordered. On a demand for *yeas* and *nays* a majority can reconsider" (Reed's Rules, p. 176).

A number of different votes may be taken on the same question before the judgment of the body is finally determined. Thus it is possible to have a voice vote, a vote by the uplifted hand, a standing vote, a vote by tellers, and a vote by yeas and nays on the same question, one vote following another in that order. The voice and the hand vote are approximate, and depend largely on the hearing, the seeing, and the estimate of the chairman. The other votes are count votes—the standing vote with count, the tellers, and the yeas and nays, the latter, in addition to being a count vote, is also a record vote showing how each individual voted and making it a matter of permanent record.

The vote by tellers may be had on the demand of one fifth of a quorum at any time before the question of the yeas and nays is pending, or after it has been denied.

A **tie vote** is one where there is an equal number on each side. When there is a tie vote the motion fails. The

chairman, however, has the casting or deciding vote in such a case, and, if he gives it for the affirmative, the motion prevails. He may even vote with the minority when his vote will make a tie, and thus defeat a measure, and he may vote in any case where his vote would change the result.

Where a two-thirds vote is necessary, and his vote given to the minority would prevent the adoption of the question, the presiding officer can so cast his vote. In other words, the presiding officer, if a member, votes whenever his vote would change the result, but, ordinarily, does not vote when his vote would not change the result. When both sides have voted and the result is a tie, he may vote to break the tie. So, when the result shows that one side has only one less vote than the other the presiding officer may, if he so desires, vote with the minority, and so make a tie, thus defeating the measure by transforming an affirmative into a negative vote.

As to the effect of a tie, Robert says: "If there is a tie vote on the motion to 'strike out,' the words are struck out, because the question which has failed is, 'Shall these words stand as a part of the resolution?' But in case of an appeal, though the question is, 'Shall the decision of the Chair stand as the judgment of the assembly?' a tie vote sustains the Chair upon the principle that the decision of the Chair can only be reversed by a majority."

A member can change his vote (when not made by ballot or other form where the vote cannot be verified) before the presiding officer finally and conclusively pronounces his decision, but not afterward. This right to change a vote applies to a yea and nay vote which is a matter of record, so that it can be ascertained just how the individual did vote.

The maker of a motion may vote against his motion, but he cannot speak against his own motion.

Before voting on a question it is possible to vote on separated sections of the motion, or whatever may be the

pending proposition, as though the sections were a series of propositions.

This is called a **division of the question.** This is very different from a *division of the house*, and the two kinds of division should not be confounded. The division of the house is for the purpose of compelling the members to show on what side they are by a count vote, which count is to determine the accuracy of the decision of the Chair on an estimated vote from hearing the voices or seeing the uplifted hands of the members when a voice or hand vote was taken.

The *division of the question* is literally a dividing of the question into parts, so that each part may be voted on by itself. Thus sometimes a motion may consist of more than one distinct idea, and therefore would be divisible into two or more distinct propositions, and it might be that some would favor one part and not another, and consequently would desire to vote on the parts separately. In such a case a member may arise and in due form, addressing the Chair, ask, or call, for, or demand a division of the question. It has been good form to move that the question be divided, specifying in the motion how it is to be divided. On such a motion the assembly would vote, and if the motion for a **division of the question** prevails, then each part will be put to vote as though it were a separate motion, and one part may be carried and another lost.

Under recent but well-established practice, however, it is sufficient for a member in proper form to say, "Mr. President! I call for a division of the question." Thus in the United States House of Representatives the rule is that "On the demand of any member, before the question is put, a question shall be divided if it include propositions so distinct in substance that one being taken away a substantive proposition shall remain," and this has become the common practice in parliamentary bodies. The demand of one member is sufficient to secure a division of the question.

The presiding officer can rule as to the proper divisibility of the question, but an appeal may be taken from his ruling.

Voting on resolutions, reports, or documents containing independent paragraphs, as, for example, a **series** of resolutions, calls for special remark, because of varied and faulty practices.

Some vote upon the adoption of each paragraph, or section, separately, and, then, having adopted each one in order, at the end vote upon the adoption of the entire paper "as a whole," as it is said. But why readopt that which has just been adopted? As Robert says, "This would be voting to adopt what had already been adopted in details."

It is deemed better form to proceed from one paragraph to another, amending the parts wherever necessary, but not adopting the sections one by one, and, then, at the end, taking a vote on the adoption of the whole document, whatever it may be.

Speaker Reed says: "In the assembly the proposition, or main question, should be first read, in order that the members may understand the question as a whole. It is then read a second time, when it is open to amendment and debate in all its parts. . . . When the main question is in paragraphs or sections, the second reading is by paragraphs or sections for amendment, and each paragraph is amended in turn" (Reed's Rules, pp. 93, 94).

According to this method, if there is a preamble, action is not had on the preamble, until all the other parts are gone through with. This is important because consideration of, and changes in, the other portions may necessitate alterations in the preamble. "Then a vote is taken on adopting the entire report as amended" (Robert: Rules, p. 92).

If the document is adopted paragraph by paragraph, all of it is adopted, and adopting them over again seems unnecessary.

Seriatim voting is frequently resorted to when a paper

presented is made up of paragraphs which may stand and be considered one by one in their order. The word "seriatim" is from the Latin *series*, a series, with the ending *-atim*, as in *verbatim*, and means "serially" or "seriately," so as to be or make a series.

When a document in that form is presented a member may arise and say, "Mr. President, I move that it be considered seriatim." If that is agreed to, the effect is similar to a division of the question, and the separated parts are to be considered serially, or one after another.

If each part is adopted as the consideration proceeds, at the end all the portions have been adopted when the last part is adopted and there is no necessity for a final motion to adopt as a whole what has already been adopted. If, however, the several parts are simply considered for amendments, and are not adopted one by one, then at the end it will be proper and necessary to vote upon the adoption of the entire document as it then stands.

As to the right of a chairman to speak on a seriatim consideration of a report, the rule is that a chairman of a committee, or the person acting as chairman when a report is under consideration, has a right to speak even after the previous question has been agreed to, or an order to close the debate has been adopted. The principle is that he has a right to close the debate before final action has been taken, or before the vote on a motion which may mean actually or practically final action. Thus it would mean before the vote on the question of adoption or the vote on the motion to lay on the table, which might practically mean the defeat of the report.

Hence, if a report is considered seriatim, and the body follows the plan of voting finally upon each paragraph or section, the person in charge of the report should have the same right to close the debate before the final vote on each section. Otherwise he would be deprived of his right, for at the end he could not have an opportunity to speak for the report, as the final vote had already been taken section by section. In other words, a seriatim

consideration practically breaks up the report into as many separate reports as there are sections, on each of which he has his privilege when a vote is to be taken section by section.

Voting by ballot is a method of secret voting, so that under cover of secrecy—no one but the member voting knowing how he voted—each member may express his own conviction without fear or favor, because he votes without the knowledge of his fellows as to the way he votes.

The word "ballot" means literally "a ball," from the French *ballotte*, "a little ball," and voting by ballot was originally with white and black balls—white in favor and black against. In later times, and at present, however, while the name "ballot" continues, it does not indicate the literal use of a ball, but is applied to slips of paper on which is written or printed the wish of the voter. So the form of the ballot is now of little moment. The essential feature of the ballot is that the vote shall be secret and that it be cast into a common receptacle, where it may be mixed up with other votes in a promiscuous mass, thus increasing the presumed secrecy.

As a general principle, the ballot method is used when required by the law or by a special order of the body. It is common in the election of officers and is frequently used in determining other matters, and, especially, when the independence and free action of the individual is sought to be secured under cover of secrecy. Thus various questions may be settled by the secret ballot. Where balls are actually used the voter drops a ball into the box or other receptacle, which is arranged so that others cannot see whether he drops a white or a black ball. The common practice is for the chairman to appoint at least two tellers, who distribute slips of paper which usually are blank. Then the presiding officer may give specific instructions and say, "The members will prepare their ballots," and each member will write on his slip whatever he wishes to vote. This being done, the president directs

the tellers to collect the ballots. All having voted, the tellers canvass the vote in the presence of the house, or, to save time, are permitted to retire to count the ballots and to prepare their report. The tellers having counted the ballots and tabulated the vote, report the result to the presiding officer, who announces the vote and the result to the assembly.

In counting ballots all blanks are ignored, because a blank, though it represents an individual voter, is no vote. Defective and illegal ballots, likewise, are thrown out. Sometimes tellers report uncertain ballots to the house for its judgment as to whether they should or should not be counted. In such cases the decisions should be made before the result of the ballot is reported, and, if possible, before the count shows the result.

The tellers may report:

Whole number of ballots cast.....
Less blanks.....
Less defective and illegal ballots.....
Total number of valid ballots.....
Necessary to make the requisite majority or legal vote, or necessary to elect.....
Ballots for.....
Ballots against.....
Result of ballot.....

The presiding officer, if a member of the body, has the right to vote with the other members when the vote is by ballot, but if he neglects to cast his ballot at that time and before the ballots are counted, he cannot then vote without permission of the meeting, and the principle of making and breaking a tie or changing the result does not apply to a ballot vote, because, as it is a secret process, who it is that casts a particular ballot is presumed to be unknown.

CHAPTER IV

NOMINATIONS AND ELECTIONS

It is customary in most bodies to openly present the names of persons for various official positions, but in some bodies no public nomination is made for certain lofty places. Thus in ecclesiastical bodies charged with the responsibility of electing bishops the usage is to proceed to an election without any public nomination. Such an exception is because of the great dignity of the office and on the supposition that no one should be voted for who would not naturally and spontaneously be in the mind of the Church or of its representatives in the Conference or convention, and also because in such an election there should be nothing suggestive of political methods. Sometimes the first vote is used as a practical nomination, as it reveals who are in mind. Sometimes it is spoken of as an "informal ballot," which is not considered as binding, but which is a secret nomination on the part of the individual voters and a revelation of the voting strength of the respective nominees.

To nominate is to name for the place, and usually that is done publicly. In a meeting one may rise and say, "Mr. President, I nominate ——— for (such a place or office)." This he does when the presiding officer announces that nominations for the place are in order, or when attention is called in some way to the fact that a nomination is in order. When the nomination is in order any member and every member has a right to name one person for the place, but no more. A nomination does not require a second. When the time for voting comes the Chair will read, or have read, the names of all the parties proposed.

The mode of election is determined by the body itself, unless a higher law or superior authority has fixed the form. Sometimes the vote is by voice or the uplifted hand or by yeas and nays, but the common and more independent form is by ballot, because of its protection of secrecy. The common form of elections in the United States for public office is by ballot.

The **requisite vote** for an election, when not otherwise determined by law or by the order of the body, is a majority vote, that is to say, by the vote of at least one more than a half of the number voting. Sometimes a plurality, or the largest number of votes, where there are two or more persons named and voted for, is sufficient to elect, but that should be on the mandate of a superior authority or by an order of the body, the general principle being that a majority should determine. Some bodies for some offices require a two-thirds vote. The requisite vote for an election, as well as the method, should be declared by the law, or by the order of the body, prior to the voting. Otherwise a simple majority is necessary and sufficient to elect.

On a ballot vote a member is not restricted by the public nominations, but may vote for one who has not been formally or openly nominated. In other words, he may by ballot vote for anyone he pleases. Even the adoption of a motion to close the public nominations does not preclude the member from the exercise of this right.

The number of **tellers** to collect and count the votes is determined by the law or by the house itself, but where there is no specific law or order of the body the usage is for the Chair to name the tellers, and in such numbers as he may deem necessary.

When the tellers have presented their returns the Chair will read, or have read, the report, and may say: "The whole number of votes cast is ———; the number necessary for a choice is ———; Mr. A. has received ———; Mr. B. ———; Mr. C. ———. Mr. A., having

received the requisite number, is hereby declared elected," or, in case there is no election, he may say, "No one having received the requisite number, no one has been elected, and you will please prepare your ballots for ———." Then after a reasonable time he may say: "The tellers will collect the ballots. Have all voted? The tellers will retire and count the ballots."

When the rule calls for an election by ballot the ballot is the legal form. With such a rule standing it would not be proper to move that a person be elected by "acclamation." Acclamation is literally a shouting, from the Latin *acclamare*, "to cry out at," "to shout at," either in a hostile or a friendly manner. To say the best, it is not a dignified way of voting in a deliberative body. Dr. Rufus Waples says: "When it would be in order to move that a stated person is elected, it yet might not be in order to have him elected *by a shout*, for that is what 'acclamation' means." "Voting by a shout is unseemly in a deliberative body. 'Acclamation' is not a method of voting known to parliamentary law" (Rufus Waples: Parliamentary Practice, pp. 150, 151).

Sometimes it is a form of coercion which overwhelms and represses many who are not in favor of the proposition, so that, while it is in the interest of one, it probably does serious injury to others by preventing a free individual expression of preference which is the intention of a ballot vote. Of course, no one would think of it if two or more persons were in nomination, but sometimes it is resorted to for the purpose of preventing any other nomination, which manifestly is an interference with the rights of others.

In some bodies where the law calls for a ballot vote, occasionally a motion is made that the secretary, or some other person, cast the ballot for a particular person. Even if this is done in compliance with the vote or order of the house, it does not carry out the intention of the law, and is not a legal ballot according to that intention, for the ballot form guarantees to every individual member the

right to cast an individual ballot which no one may know but himself.

The ballot cast in that way by the clerk, or other designated person, for a particular individual, who is named, is not a legal ballot, for the legal ballot is a secret vote, whereas the vote cast by the indicated person is an open vote with all secrecy eliminated. Therefore to order that one person cast the ballot for the whole body does not meet the conditions of a legal ballot which implies secrecy as to the vote cast.

But it may be asked whether it could not be done if no member objects. No, for even then it would not be a true ballot, and no member should be put in the position of an open objector when the ballot method guarantees him secrecy in his vote. It deters free individual expression and has the effect of a coercive measure or a gag. When the law gives the member a right to vote in secrecy, the body has no right to compel him to give an open vote. Even when there is only one candidate named it is not perfectly fair to move that the secretary, a teller, or someone else, cast the ballot for the person named, for no one can tell how many others would be voted for under the protection of a general and secret ballot. Certainly, if anyone objects, or there is a single vote against the motion that one person cast the vote, the law for a general ballot should be observed, and, indeed, no one should be forced into the position of an objector. To be elected on a general and free ballot means more in many ways, and is a greater compliment than this coercive method which combines the overwhelming rush and gag.

Sometimes, after a person has been elected, a member moves that the election be made unanimous. This is really a motion that has no legal value. The counted vote is the vote that elects, and, in such a case, has elected the party, and is the only vote that counts. The motion to make the vote unanimous is merely a compliment, and a questionable one at that, but does not change the legal vote in any particular, much less make it unanimous.

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Certainly, the motion falls if there is a single objection; and, if the motion prevails, the party has really no more votes than he had before, and would have without it.

An election cannot be reconsidered, as may a vote on a motion. When the vote has been taken, counted, and announced, and the person elected, it cannot be reconsidered. That is perfectly plain where the vote has been by ballot, for no one can move to reconsider who has not voted on the prevailing side, while on a ballot which is secret, it cannot be known on what side a party voted, and, so, one could not plead that he voted on the prevailing side, and demonstrate that he had so voted.

Further, it is intolerable that after the result of the vote has been revealed, one should propose to overturn the will of the body of electors by a motion to reconsider, or anything equivalent thereto.

However, an election can be invalidated if it can be shown that there was fraud in the election. It may be reopened if there has been serious error, for example, a wrong count sufficient to change the result. Under such circumstances in the State even ballot boxes could be opened and a recount had; but where ballots have been destroyed by order of the house, or have become mixed up with other papers, or have been lost after the election, this would not be possible.

Once, however, one has been elected, and no fraud or other serious legal objection can be shown, the election cannot be reconsidered, reopened, or overturned. The party is entitled to all that is implied in the election. If, however, his conduct in office is contrary to the law he may be impeached and subjected to a legal inquiry, but in such a case he must have all his legal rights in explanation and defense—to face his accusers, to hear all, and to answer all.

PART IV

PARLIAMENTARY QUESTIONS

CHAPTER I. Motions

CHAPTER II. General Classification of Motions

CHAPTER III. Specific Classification of Motions

CHAPTER IV. Subsidiary Motions

CHAPTER V. Incidental Questions

CHAPTER VI. Privileged Questions

CHAPTER VII. Miscellaneous Questions

CHAPTER I

MOTIONS

The basis for business, and the point for decision, is called the **motion.** In other words, a motion is a formally worded proposition presented in a deliberative body for its consideration, and for its decision by vote. So it has been defined as "A proposal looking to action or progress; especially, one made in a deliberative assembly," and, in a parliamentary sense, to move is "To propose; recommend; specifically, to propose formally in a deliberative assembly for consideration and determination."

A member having a suggestion to which he desires the meeting to agree, arises, and, being duly recognized, makes a motion touching the matter. Thus he may say, "Mr. President, I move—thus and so," or "Mr. Chairman, I make the following motion," and the motion is the thing proposed.

A simple motion may be independent of other propositions and complete in itself, or it may bear upon some other proposition before the body, and may suggest a disposition of the other proposition. Thus one may make a simple motion to adjourn, or, a paper having been presented, it may be moved to refer it to a committee.

Brief routine motions may be merely oral, and, being short and easily understood, are taken down at once by the secretary, but longer motions, embracing matter less easily understood or remembered, should generally be offered in writing, and they must be written out on the request of the presiding officer, or on the demand of any member. This avoids misunderstanding, prevents confusion, and frequently saves much time. The clerk may assist in reducing the motion to writing.

A more formal kind of motion is called a **Resolution,**

and begins with the word *Resolved*. A resolution is supposed to embody a series of general principles that direct a simple motion. A mover of a resolution is expected to put it in writing before he presents it. It is also usual for him, as also for the seconder, to have the support of another who attends the meeting and has agreed to support the motion. When a motion is introduced the question is seconded, and it is not necessary that there should be a vocal second.

Sometimes there may be a series of resolutions, which should be considered in their order, and sometimes they are preceded by an introductory paragraph called a *Preamble*. Preambles, beginning with the word *Whereas*, which precedes the reason or reason for the resolution or resolutions.

When the body is considering a resolution, or a series of resolutions, with a *Preamble*, the action is first upon the resolution or resolutions, and then upon the preamble. When there are several resolutions they may be acted upon together by one vote, or someone may move that they be taken up seriatim, that is to say, a regular order one after another, beginning with the first. This would be the order of consideration and action in a report of other parties containing [illegible] resolutions or recommendations, as for the whole paper to be read by the clerk, after which reading the president should read, or cause it to be read by paragraphs, or one resolution after the other, pausing at the end of each, and asking, "Are there any amendments proposed to this paragraph?" If there is a proposal to amend, that should be acted upon, but in this case there should be no vote taken on the adoption of the paragraph or resolution. If no amendment is offered, the chairman says, "No amendment being offered to this paragraph, the next will be read." Thus he proceeds to the last, when he states that all the resolutions have been read and open to amendment. Finally he puts the question on agreeing to or adopting the whole report as amended. If each paragraph or section is

adopted separately, as is sometimes done, it is unnecessary and improper afterward to vote on the adoption of the whole report, because this would be voting to adopt what has already been adopted in detail. Such action would make further and desirable amendment difficult, as it would necessitate a reconsideration.

If the resolutions fail, the preamble is not read, but goes with them; but if they are adopted, it is read and acted upon after the last paragraph.

When a motion or resolution is regularly before the body no other principal motion or main question can be received, for it would create confusion to have two such propositions before the house at the same time, but various other motions which are intended to affect the original motion, and which should be considered before it (and hence are said to be precious in their nature), may be made, and, if made, must be considered and voted upon before the vote is reached on the original motion.

Every new motion is a new question, though it bear upon the same general subject, and, with the exception of undebatable questions, a member can speak to these motions as though he had not spoken on the main question.

In voting upon motions when two or more are pending, the rule is, Last made, first put.

Again, it should be remembered constantly that to prevent mistakes every lengthy and formal motion, as well as resolution, should be presented in writing, though the less elaborate motion may be taken down by the secretary, and, for this reason, the common rule is that all Principal Motions, Resolutions, Amendments, and Instructions to Committees should be in writing, if required by the presiding officer. A resolution must be put in writing at the request of any member.

CHAPTER II

GENERAL CLASSIFICATION OF MOTIONS

Motions are of many kinds with different characteristics, and yet some have a similar general purpose or relation, and so may be classified together or placed in groups. These different classes are grouped under various heads suggestive of their general character. Thus there are *Principal Motions*, *Subsidiary Motions*, *Incidental Questions*, *Privileged Questions*, and *Miscellaneous Motions*.

The principal motion is the original or primary motion or the subject by which the matter is brought before the body, or in other words, the fundamental motion by which the subject is introduced for the consideration of the assembly.

Being the first introduced on the matter in hand it is the *chief motion*. Obviously it is no motion or *No question*.

If other motions are introduced which bear upon the primary motion then it becomes and is technically characterized as the **Main Question.**

The primary or original motion may be followed by other motions which directly relate to, or bear upon, it. These later motions are made for the purpose of modifying or disposing of the principal motion, or main question, in a way somewhat different from that originally implied in the presentation of the principal motion.

As these later motions follow the primary motion, they are called *secondary motions*. Because they cannot exist without the previous existence of principal motions to which they relate, or upon which they depend, and in the employment or disposal they are intended to have a part, they are called *subsidiary motions*. It may make the idea easier to remember that the word "subsidiary" is from

the Latin *subsidiarius*, "belonging to a reserve," from the Latin *subsidium*, referring to the troops stationed in reserve behind the principals in the Roman army. So subsidiary motions are the reserve motions which follow the principal motions. It happens, however, that sometimes they are used to destroy rather than to support. Because of their bearing upon the principal motion they must be decided before the main question to which they relate.

Then there is a third class of motions, called **Incidental Questions** because they happen without any regularity, and are occasioned in a casual way through the consideration of principal, subsidiary, or other questions. These questions do not bear directly upon the primary, or main question, but arise incidentally during the progress of the business, and hence their name.

In addition to the main, subsidiary, and incidental questions, there is a fourth class called **Privileged Questions.** They do not modify or bear upon the main question, though they may be presented while the principal motion or other motions are being considered. They are called privileged questions because of special privileges which belong to them, particularly as to the time when they may be introduced and because of their pressing and immediate importance. Thus they may be introduced at any time, and must be considered before any other subject or proposition that may be before the house.

Then there are some questions which are not easily classified under the foregoing heads which have been termed **Miscellaneous Questions.** Their names plainly indicate their purpose.

CHAPTER III

SPECIFIC CLASSIFICATION OF MOTIONS

THERE are six *subsidiary*, or *secondary*, *Motions* as follows: 1. To Amend. 2. To Commit, Refer, or Recommit. 3. To Postpone to a Certain Day. 4. To Postpone Indefinitely. 5. For the Previous Question. 6. To Lay on the Table.

The order of mention may be changed without any difference in effect. It will be seen that all these motions have a direct relation to the primary motion or main question, and, generally, they are intended to modify the form of the main question, or to remove it from the immediate consideration of the body.

Incidental Questions are those which arise incidentally during the progress of the business or while other questions are being considered. It may be, under the principal motion, a subsidiary motion, or some other question.

They are apt to spring up so irregularly that no one can certainly anticipate when an incidental question will be introduced. They may be interjected at almost any moment and in a sense interrupt the ordinary process, and must be considered and decided before the regular business can be resumed.

The following are styled *Incidental Questions:* 1. Objection to the consideration of a question, or, in other words, The Question of Consideration. 2. Questions of Order (including appeals from the decision of the Chair). 3. Reading of Papers. 4. Withdrawal of a Motion. 5. Suspension of the Rules.

From their very nature they must be decided before the questions which give rise to them. They cannot be amended, and, excepting an appeal, they cannot be

debated, and an appeal is debatable only under circumstances to be stated hereafter.

Privileged Questions are so called because they are conceded special privileges above any other class of motions. Thus they may be presented while other propositions are pending and hold other business in abeyance until they have been considered and settled. Sometimes a privileged question has a certain precedence over other questions by a rule or special order of the assembly, but the privileged questions of general parliamentary practice have their peculiar privileges because of something in their essential nature or because of the rights or necessities of the body itself.

There are four *Privileged Questions:* 1. To adjourn. 2. To fix the time to which the body shall adjourn. 3. To take a recess. 4. To Call for the Orders of the Day. 5. Questions of Privilege: (*a*) concerning the body; (*b*) concerning the individual member. They are undebatable excepting when they relate to the rights of the meeting or its members.

A few parliamentary questions in regard to the classification of which there is some uncertainty or difference of opinion because they do not seem to clearly come under any of the previously presented heads, have been grouped under the less definite title of *Miscellaneous Questions.* For example, the following questions have been so classed: 1. The Call of the House. 2. Parliamentary Inquiries. 3. To Reconsider. 4. Renewing a Motion. 5. To Fill Blanks. 6. Nominations.

CHAPTER IV

SUBSIDIARY MOTIONS

1. Amendments. The most frequently used subsidiary motion is the motion to *Amend*.

The legitimate purpose of an amendment is to mend or improve the motion or measure to which the amendment is applied. Sometimes, however, the amendment is employed to defeat the purpose of the original mover. Naturally it applies to that which precedes it and cannot stand alone as a separate and independent motion.

The motion to amend may be in several forms: (1) To "add" or "insert"; (2) to "strike out"; (3) to "strike out certain words and insert others"; (4) to "substitute" one motion or resolution for another; (5) to "divide the question" into two or more parts, as the mover specifies, each part to be treated as an independent question in the order in which it stands; and (6) to fill blanks.

The mover, having secured the floor, addresses the Chair and says: "Mr. President, I move to amend"—stating exactly what he proposes, whereupon the presiding officer states the question, and the house proceeds to its consideration, the original motion becoming the main question, and the motion to amend being the subsidiary question.

An amendment must be germane; that is to say, it must be akin or closely related to the main question. It must be relevant. In other words, when the main question is on one subject the amendment must not introduce another and foreign issue. It is possible, however, to amend so that the main question may be made to do the very opposite from that which was originally proposed, but the amendment must be on the same subject. Thus, it is allowable to amend a proposition in such a manner as to

entirely alter its nature and directly conflict with the spirit of the original motion and bear a sense very different from that intended by the mover of the original proposition, but it must have a direct bearing upon the subject of that motion. Thus, "thanks" might be stricken out and the word "censure" inserted. Sometimes Legislatures amend a bill by striking out all after the enacting clause and inserting an entirely new bill. Other bodies also amend by striking out all after the word "Resolved," and insert an entirely different phraseology and a proposition of a wholly different tenor, provided the matter proposed to be inserted relates to the same subject as that proposed to be stricken out.

The rule in the United States House of Representatives is: "No motion or proposition on a subject different from that under consideration shall be admitted under color of amendment."

In regard to an amendment which is inconsistent with one already adopted, Cushing, in his *Lex Parliamentaria Americana*, says: "The inconsistency . . . of a proposed amendment . . . with an amendment which has already been adopted, though it may be urged as an argument for its rejection by the house, is no ground for the suppression of it by the Speaker as against order."

In support of this he cites Jefferson, Section XXXV, and on this point Jefferson says: "If an amendment be proposed inconsistent with one already agreed to, it is a fit ground for its rejection by the House, but not within the competence of the Speaker to suppress it as if it were against order."

Nevertheless, if the proposed amendment were clearly in opposition to an amendment already adopted, it would seem to be the duty of the Chair to rule against its admissibility on the principle that the house having decided the opposite, it could not overturn itself without a reconsideration. From the decision an appeal could be taken if desired.

In debating an amendment the discussion is on the

amendment and its relation to the main question, but the close relation between the two permits discussion that involves both, so that while the question is on the amendment a skillful debater can discuss both the amendment and the original proposition.

The presiding officer, in putting the question on an amendment, should read, or cause the clerk to read, first, the passage to be amended; then the words to be stricken out, if any; then the words to be inserted, if any; and, finally, the whole resolution as it will stand if the amendment is adopted, and then state the precise question. If the amendment is lost he will announce the result, and then say, "The question now recurs on the resolution"; or, if it is carried, he will say, "The question now recurs on the resolution as amended," for the carrying of the amendment does not imply agreement with the original proposition, and, therefore, strictly speaking, a separate vote is needed upon the resolution as amended.

Before a motion has been stated by the Chair the mover may change it in part, or withdraw it at his pleasure. Even after it has been stated, he is usually allowed to modify it. It has also become common, after an amendment has been moved and seconded, for the mover of the original motion to accept the amendment, and modify his motion accordingly. Both of these practices involve the principle of withdrawal of a motion and the substitution of another, so that there should be, according to the old method, permission granted, but, by recent practice, the mover may withdraw or modify at any time before decision or amendment. The member can move to amend his own motion even under the old principle.

While a main question is under consideration, and an amendment has been moved, it is allowable to move another amendment, not to the main question, however, but to the pending amendment to the main question, for it is a general principle that only one motion at a time can bear upon another motion. This second amendment is called an amendment to the amendment, and some-

times it is termed an amendment in the second degree. A motion may be made to amend an amendment, but this is the limit; there cannot be an amendment to an "amendment to an amendment." Like the amendment to the main question, the amendment to the amendment must be germane, and the same principle of debate applies to it as to a simple amendment.

The vote is first on the amendment to the amendment. If this prevails, then on the amendment as amended. If this prevails, then the final vote is on the original motion as amended. The carrying of the amendment to the amendment does not imply concurrence in the amendment, and agreement with the amendment to the amendment does not carry the main question as thus amended; so, after voting on the amendment to the amendment, and the amendment as thus amended, it is necessary to take a final vote on the main question as thus amended.

If the amendment to the amendment is lost, then the vote is on the amendment; and, if the amendment is lost, then the vote is on the original proposition.

It is possible when an amendment to the amendment has been voted upon to offer another amendment to the amendment until the house is satisfied with or finally accepts the amendment to the amendment as amended, or not amended; and when all the amendments have been disposed of it is possible to begin over again the process of amendment until the house is satisfied and the members are satisfied that the process has gone far enough.

It is also permissible to have a **Substitute** for the main question or original motion. A substitute is of the nature of an amendment, but is more extensive and comprehensive than an ordinary amendment. Thus the motion might be to substitute one resolution for another. To substitute is to put one thing in the place of another. The substitute is the thing substituted or proposed to be substituted. The substitution is the act of substituting.

A parliamentary substitute may be offered before any ordinary amendment has been presented, but it is also

allowable to have pending an amendment and an amendment to an amendment, and then to have a substitute. It is not good form to move a substitute "for all that is before the house," for a substitute is for the main question or original proposition. So, when a member arises and says, "I move the following substitute," the meaning is that he moves his substitute to take the place of the main question, and not "for all that is before the house."

It is also possible to have one amendment moved to the substitute, but there can be no amendment to an amendment to a substitute. Only one amendment to a substitute can be entertained at the same time. Thus there might be pending at the same time the main question, or original proposition, an amendment to that and an amendment to the amendment, and then a substitute followed by one amendment to the substitute, making five questions or motions at one time bearing upon the same thing.

A faulty and unphilosophical practice in some minor bodies has been to begin the voting on the substitute or the amendment to the substitute and to ignore the amendments to the main question. This is bad practice and will be avoided by all those who understand the philosophy of sound parliamentary practice. The proper procedure is very different. In such a case, where there is a substitute and amendments to the main question and one amendment to the substitute before the house, the parliamentary course is to pass upon the respective amendments and reduce the propositions to two, namely, the *Main Question* and the substitute therefor. In doing this the first vote is not upon the amendment to the substitute, but upon the amendment or amendments proposed to the original proposition, or main question, so as to clear them away, and then the vote is upon the amendment to the substitute, so that there remain the main question and the substitute for the main question, and the latter is placed against the former.

Then the first vote is upon the question of substitution; and if the substitute is agreed to, it acts like an amend-

ment and takes the place of the former main question, and the final vote is upon the adoption of the main question as thus substituted. The principle is to perfect the main question and the substitute by clearing away the amendments to the main question and the substitute so as to bring one proposition squarely against the other.

The process begins with the amendments to the main question, because they were first moved and because when the main question is perfected the house may or may not want the substitute. The rule as stated in the Digest of the United States House of Representatives is as follows: "It has been for many years the practice of the House that there might be pending, at the same time with such amendment to the amendment, an amendment in the nature of a substitute for part or the whole of the original text, and an amendment to that amendment. . . . So that, notwithstanding the pendency of a motion to amend an amendment to the original matter, a motion to amend, in the nature of a substitute, and a motion to amend that amendment, were received, but could not be voted on until the original matter was perfected."

This may seem at first sight to be out of harmony with the rule, Last made, first put, but a little thought will show that it is not. The substitute is later than the main question and is voted on before the main question, and the amendments are later than the propositions on which they bear. There are two alternative propositions. From them the amendments are cleared away, and then the vote is on the substitute which came later than the original motion, and, finally, the vote is on the main question, which was first made.

When a substitute is pending, other amendments to the main question cannot be presented until the substitute has been acted upon.

2. Commitment. The motion to *Commit* (or *Recommit*) is intended to take the subject from the main body and transfer it to the consideration of a smaller number, or to the whole number acting under broader privileges

than those of the formal body. The legitimate object of a committal is that the subject may be studied outside of the regular meetings of the body, and that as a result of such inquiry recommendations may be matured and reported to the body. Usually, it is a labor-saving device for the public body, and the committee is to prepare the matter for the consideration of the house.

The form of the motion is that the matter be referred to a committee, naming the committee, or "Mr. President, I move that the (matter, motion, or whatever the proposition may be) be referred to a committee" (indicating the character of the committee).

The motion to commit may be made as soon as the matter is introduced or after there has been discussion, amendment, or other stage in the consideration has been reached.

The motion to commit is amendable and may be amended by changing the committee as to kind or numbers, or by giving it instructions. If more than one kind of committee is suggested, then the vote will be, first, on the committee of the whole; second, on a standing committee; and, third, on a special (or select) committee.

Common parliamentary law makes a motion to commit debatable, and under it permits discussion on the merits of the main question. This is on the principle that it is well to let the committee know the views of the body, and, further, because of the risks the matter runs in being referred to a committee which may delay its report. Then the question of reference involves the consideration of the matter which it is proposed to refer, and so the motion to commit opens up, and permits debate upon, the entire merits of the question which may be committed.

Writing on the motion to commit or refer, H. M. Robert says, "It is debatable, and opens to debate the merits of the question it is proposed to commit" (Rules of Order, pp. 63, 64). Again, General Robert says of the motion to commit: "It is often important that the committee should know the views of the assembly on the

question, and it therefore is not only debatable, but opens to debate the whole question which it is proposed to refer to the committee" (Rules of Order, p. 104). Even if a technical rule limited the debate within narrow limits to the mere matter of reference, it would not be difficult for a debater to bring in the merits of the whole question involved as a reason why or why not the matter should or should not be referred to a particular committee or to no committee at all.

The motion to recommit is the same as to commit, only that it refers to a matter which has already been reported by a committee. The form of a recommitment is similar to a commitment. The effect of the adoption of the motion to commit, if decided affirmatively, is to end the consideration of the matter in the body, and to pass it over to the designated committee. If it is decided negatively, the question remains with the house for consideration or for disposal in some other way. If the motion to refer to a committee prevails, and the committee is not then in existence, the Chair may say, "How shall the committee be appointed?" The house may designate, or the house may cry "The Chair!" Then the Chair may ask, "Of how many shall the committee consist?" If only one number is suggested, that will be the number. If two or more numbers are mentioned, the Chair will put the matter to vote, beginning with the higher or highest number.

3. To Postpone to a Day Certain. The motion to *Postpone to a Day Certain*, or to a certain time, is used when the assembly is not prepared at the present to consider and decide the matter, but wishes to have a definite and well-understood time when it will be considered.

The motion to postpone to a certain day, or to a certain time, is intended to postpone the entire subject to the time specified. If carried, the matter cannot be taken up before that time except by a two-thirds vote, but when the time is reached the subject is entitled to be taken up in preference to everything except privileged questions.

Questions postponed to different times, but not then taken up, shall, when considered, be taken up in the order of the times to which they were postponed. It is not proper to postpone to a time beyond the present session, except to the day of the next session, when it comes up with unfinished business. This motion allows limited debate, but not on the merits of the pending matter, excepting as far as is necessary to enable the meeting to determine the propriety of the postponement.

The motion to postpone to a certain day is amendable. Thus it may be amended by the substitution of a different day or time. It has been held that the better way is to allow the day to be a blank which may be filled in the usual manner, beginning with the longest time. If the motion is decided affirmatively, the subject to which it is applied is removed from before the body, with all its appendages and incidents. The previous question can be applied to it without affecting any other pending motion.

4. Indefinite Postponement. The motion to *Postpone Indefinitely* is not used for the purpose of placing the subject before the house where it can be taken up at pleasure any moment, but it is intended to suppress a question altogether, without coming to a direct vote upon it, and in such a manner that it cannot be renewed. It is a postponement or adjournment of the question, without fixing a day for its resumption; and, as an indefinite adjournment is equivalent to a dissolution, so, if this motion is carried, its effect is to quash the proposition entirely by removing it from consideration for that session.

It differs from the question of consideration in several important particulars. Thus the question of consideration cannot be moved after debate on the main question has begun, for it is an objection to consideration, while the motion to postpone indefinitely may be moved after discussion has proceeded. The objection to consideration is not debatable, but the motion for indefinite postponement opens up to debate the entire question it proposes

to postpone indefinitely, for the reason that it may mean the death of the proposition.

The motion to postpone indefinitely cannot be made when an amendment or any other motion than the main question is pending. If the amendment or other motion has been acted upon, then indefinite postponement would be in order. "It cannot be made while any motion except the original or main question is pending, but it can be made after an amendment has been acted upon."—Roberts.

The motion to postpone indefinitely cannot be amended, and if the previous question is ordered when this motion is pending, the previous question applies only to it.

5. The Previous Question. The motion for the *Previous Question* is often misunderstood, because the phrase is so apt to mislead or confuse, and the phrase has, in a parliamentary sense, lost its original application.

The motion for the previous question is understood to have originated in the English Parliament in 1604. It could be moved only when a proposition was before the house, and then the previous question bore upon the main question. In such a case the question previous to everything else, and previous especially to putting the main question, was whether the house would or would not take a vote on the main question, and so, when a member called for the previous question, the presiding officer would say: "The previous question is called for. Shall the main question be put?"

The hope of the mover was that the vote would be in the negative, and, if the motion for the previous question secured a negative vote, it meant that the house decided that the main question should not be put to vote, and so it was set aside and the house proceeded to something else.

So the original use of the motion for the previous question was the suppression of a main question. Thus it was introduced into the British House of Commons centuries ago "for the purpose of suppressing subjects of a delicate nature relating to high personages." At first, the form

of the question was, "Shall the question be put?" and a negative vote suppressed the main question for the whole session. Afterward the form was changed to, "Shall the main question be now put?" and a negative vote on this suppressed the main question for that day only. The previous question is still used for this purpose in the British Parliament.

But as it was possible that the vote might be in the affirmative, that would be equivalent to an order of the house that the main question "be put," or that it "be now put," or, in other words, that it be put to vote. The effect of an affirmative vote, therefore, would be to cut off further debate, and at once to put the main question to vote.

Here can be seen the origin of the use of the previous question for the purpose of cutting off debate and compelling an immediate vote on the main question, and out of this has grown the American practice as to the previous question. Under the old English practice the mover of the previous question called for it in order to avoid a vote on the main question, while under the more modern American practice the motion is made to compel an immediate vote on the main question. So that the American usage makes the question equivalent to "Shall the vote now be taken without further debate?" or "Shall the discussion now cease?" and the demand for the previous question is equivalent to a motion that the debate cease and the vote be immediately taken.

Someone in due form says, "I move the previous question," or "I call for the previous question." In some bodies there must be a specified number of members to second the motion for the previous question. In Congress it used to require five, but now, in the United States House of Representatives, a majority of the members present is required. This is to avoid the yeas and nays. In ordinary societies one second was and is sufficient, and this is good parliamentary practice to-day.

The old form of proceeding was first the call for the

previous question, then the seconding of the call, and, thirdly, the vote upon the ordering of the main question. The more recent practice is, when the previous question has been demanded by any member, to immediately take the vote upon the question, "Shall the main question be now put?" "But one vote is now required to accomplish what formerly required two, *i. e.*, one vote to second the demand for the previous question and another to order the main question an unnecessary proceeding, as debate and amendment were precluded by a second" (Digest of the United States House of Representatives).

The motion being seconded, the chairman must promptly put the question in this form: "Shall the main question be now put?" This question is undebatable, and the vote must be taken at once. If the motion is lost, the debate continues as if the previous question had not been moved. If the motion prevails, then the discussion must cease and the question at once be put to vote. The only exception is where the pending measure has come from a committee, when, in such a case, the member reporting it is entitled to the floor to close the debate, even after the previous question has been ordered.

"According to former practice, the previous question brought the House to a direct vote on the *main* question; that is, to agree to the main *proposition*, to the exclusion of all amendments and incidental motions; but on the 14th of January, 1840, it was changed to embrace, first *pending* amendments, and then the main proposition" (Digest of the United States House of Representatives). "It is now in order to move the previous question on a motion or series of motions allowable under the rules, and it may be called upon a section or sections of a pending bill, or only on an amendment or amendments pending" (Digest of the United States House of Representatives).

The adoption of the previous question compels a vote only on the pending question, excepting when the pending motion is an amendment or a motion to commit, when the effect of the previous question extends also to the question

which it is proposed to amend or commit. Then all these questions are put to vote in their order and without debate. It may happen that before the previous question is exhausted a vote on one of these questions might be reconsidered, and, in such a case, through the continuing force of the previous question, there can be no debate upon the motion reconsidered. Incidental questions of order, arising after the motion is made, must be decided without debate.

The previous question can be called for simply on, or be limited to, a pending amendment. This closes debate on the amendment only, and, after the amendment has been acted upon, the main question is again open to debate and amendment. In such a case the form of the question may be, "Shall the amendment be now put to the question?" or "Shall the amendment be now put?" The same motion may likewise be limited to an amendment to an amendment. In that case the mover must specify in his motion when he presents it that the call for the previous question is on the amendment or the amendment to the amendment. Otherwise the call for the previous question covers the main question and the questions that pertain to it.

Robert deems it allowable for a member to submit a resolution and, at the same time, move the previous question thereon. But other good authorities pronounce it an unparliamentary and abusive proceeding to introduce a proposition and, at the same time, move the previous question, and Judge Cushing recommends that in such cases no notice be taken of the motion for the previous question.

The previous question can be applied to the motion to postpone to a certain day without affecting any other motions that may be pending.

There has been some disposition to modify the form of putting the previous question, and, "In the modern practice of the House of Representatives the previous question is put as follows: 'The gentleman from —— de-

mands the previous question. As many as are in favor of ordering the previous question will say aye; as many as are opposed will say no' " (Digest of the United States House of Representatives). This, however, is a departure from historic and general parliamentary law.

The previous question and motions to limit or close debate were not allowed in the United States Senate. As the previous question suspends the natural right of the assembly to discuss the subject, it should, as for suspension of the rules, require a two-thirds vote, though in the United States House of Representatives, and properly, on account of the large amount of business and the large number of members, each of whom is entitled to the floor, a majority vote is sufficient. This may also be the case in other large bodies, but in smaller societies it should require a two-thirds vote—the vote necessary to suspend any rule. This is common parliamentary law.

"Where a vote taken under the operation of the previous question is reconsidered, the question is then divested of the previous question, and is open to debate and amendment, . . . " but "these decisions apply only to cases where the previous question was fully exhausted, by votes taken on all the questions covered by it, before the motion to reconsider was made. In any other case the pendency of the previous question would preclude debate" (Digest of the United States House of Representatives).

6. To Lay on the Table. The word "table" meant primarily "a board." With supports, and presenting a flat top, it became a table in the modern sense, on the surface of which various things for various purposes might be placed. In a parliamentary body a table would be a useful and important piece of furniture, on which various documents could be laid until needed in the immediate work of the house.

In the United States House of Representatives there are two tables in a parliamentary sense, the Speaker's table and the Clerk's table. On the Speaker's table are

placed messages from the President and from the Senate and other important documents of which he must have special charge, while on the Clerk's table, or table of the House, as it also is called, are placed other and more miscellaneous matters. Certain things are taken up by the Speaker, while other things may be called up by the House, but all these things are provided for by the rules adopted from time to time by the House of Representatives.

The table is a depository on which may be placed documents, reports, motions, and other parliamentary matters, and from which may be taken the things thereon placed. Some things go to the table automatically or by special rule, while other things go on the table by vote of the house. This is done by the motion to **Lay on the Table.** It has been thus defined: "To lay on or upon the table, in legislative and other deliberative bodies, to lay aside by vote indefinitely, as a proposed measure or resolution, with the effect of leaving it subject to being called up or renewed at any subsequent time allowable under the rules." So *to table* is "To lay on the table, in the parliamentary sense: lay aside for further consideration or till called up again: as, to table a resolution" (Century Dictionary).

That which is placed on the table remains within reach of the house. Placing on the table is not a settlement of the question, but a temporary disposition of the matter. To place on the table is not a finality, but a form of postponement without fixing a time for future consideration, but the future consideration is always a possibility and is implied in the motion. All the meeting has to do is to reach out its parliamentary hand and take from the table that which it has laid thereon. This is done by a motion to **Take from the Table.**

When a matter is before the house a member, having properly taken the floor, may say, "I move that [the question, whatever it be] lie on the table," or "I move that it [the question] be laid on the table," or "I move to lay [the question] on the table."

The motion to lay on the table cannot be debated, and cannot have an amendment or any other subsidiary motion applied to it, and so the Chair does not ask the house, "Are you ready for the question?" but immediately puts the question to vote.

If the vote is in the affirmative, the matter is laid on the table and the subject is removed from consideration until the body takes it from the table. If no motion is made to take it up, it continues on the table and is removed from consideration, but it is always possible to take it from the table and renew the consideration. If no motion is ever made to take it up, it is practically, but not actually, a final disposition of the matter, though laying on the table is not a final, but a temporary disposal. The majority that tables a motion can, if it remains the majority, prevent its being taken up, and so effectually suppress the motion as long as it continues to be the majority, but individuals may change their minds and withdraw from that majority and leave it a minority. Then the new majority can recall the matter for consideration.

An affirmative vote to lay on the table cannot be reconsidered, but at another stage in the business the motion may be made to take from the table.

If the motion to lay on the table is decided in the negative, the business proceeds as if the motion has not been made.

It is in order to lay upon the table the questions still before the body, even after the previous question has been ordered and up to the moment of taking the last vote under it. This implies a vote and a decision, though a temporary one.

The motion to lay on the table is simply "to lay on the table," or "that it lie on the table." To move that a matter lie on the table "for the present" is not good form. The motion to lay on the table is for the present, that and nothing more. So it is not necessary to state what is plainly implied in its very nature. To move that a ques-

tion lie on the table until a certain time is a misuse of the motion. The proper form would be the motion to postpone to a certain time, which is debatable, while the motion to lay on the table is not. Hence it is not proper to qualify the motion to lay on the table so as to make it equivalent to a motion to postpone and then cut off debate by a mere majority vote. If the intention is to postpone then the motion to postpone should be used which will permit debate. The right form is "to lay on the table" without any qualification.

The motion to *take from the table* may vary somewhat in its phrasing, but the usual form is simply to say, "I move to take from the table ———," naming the particular matter it is intended to affect.

To take up a question laid upon the table requires a majority vote on a motion that the body "do now proceed to consider the subject," or "to take the question from the table," or "to now consider the question" (specifying it). This motion, like its opposite, is undebatable, and cannot have any subsidiary motion applied to it.

If the motion to lay on the table is decided in the affirmative, the effect, in general, is to remove from before the assembly the principal motion and all other motions subsidiary or incidental connected with it. In other words, it tables everything that adheres to the subject, so that an amendment ordered to lie on the table carries to the table with it the subject which it is proposed to amend. There are a few exceptions, thus: as a question of privilege does not adhere to the subject it interrupts, it does not carry with it to the table the question pending when it was raised; an appeal laid on the table does not carry with it the original subject; a motion to reconsider, when laid on the table, leaves the original question where it was before the motion to reconsider was made; an amendment to the minutes, being laid on the table, does not carry the minutes with it.

As laying on the table is, strictly speaking, merely a temporary disposition of the question and the question

can again be taken up, it is a mistake to apply it to an amendment, and having laid the amendment on the table, to pass to the consideration of the main question, for laying an amendment on the table carries with it the main question and all that adheres to it.

In some bodies there is a faulty method of regarding the laying on the table as a final and adverse action, and in some there appear to be special rules recognizing this method. At best they are only special rules of, and applying to, such a body, but they are in opposition to general parliamentary law, and are contrary to the philosophy of the motion itself as seen in its temporary effect and its inherent intention.

Where there is no special rule of the body there is sometimes found a grossly abusive use, or abuse, of the motion to lay on the table. Thus, in the midst of the consideration of a measure, or on the presentation of a proposition, in the form of a motion, resolution, or in some other form, a member suddenly springs to the floor, and, perhaps without addressing the Chair, or properly securing recognition, cries out in a loud voice: "I move that it lie on the table." This is usually sufficient to disconcert the friends of the measure and to destroy the judicial balance of the house. As W. E. Barton says, "As thus used it is hardly a courteous motion, and in the hands of a restless majority may become tyrannical" (Barton's Rules, p. 55); and this is true even when made in a more orderly manner.

As the motion to lay on the table cannot be debated or amended, under it the meeting is often rushed to a vote with little or no reflection, and frequently under such circumstances the motion carries, because it is quick and bold, and gives no time for deliberate thought, and so by a sudden impulse the meeting is swept off its feet.

In such an abuse of the motion the intention is to cut off debate and to kill the measure, whereas the fair use of the motion kills no measure, but simply postpones consideration and action by placing the matter on the table

temporarily, from which it may be taken at the pleasure of the body.

Instead of voting to lay on the table as a finality, if the desire is to defeat the measure, the only proper and honorable way is to bring the proposition to a vote and squarely vote it down. If it is doubtful whether the house will vote against it, then it is not fair to resort to a surprise motion to lay on the table which some may understand as a merely temporary disposal, when the object of the mover is to kill the measure.

If the house does not want to consider the matter at that time it can place it on the table as unsettled, and it may be considered later. If it is desired to cut off debate it can be done by the previous question, which requires a two-thirds vote, but even with the previous question the proposition has a further opportunity for its existence, for it may be laid on the table or be committed. If the body does not want to consider it, the question of consideration can be raised at the proper time and be carried by a two-thirds vote. But it is not fair to actually do all these things and defeat a measure by a mere majority vote under a misuse of the motion to lay on the table.

This abusive method of employing the motion to lay on the table as a gag on the discussion and as a way of finally defeating a proposition is a very direct interference with the rights of the individual members and with the collective rights of the body, by depriving them of the right of debate by a mere majority vote, when the true parliamentary principle requires that discussion on a finality should not be cut off by anything less than a two-thirds vote. In other words, it is using the motion to lay on the table as though it were the combined motions—for the previous question, the motion to indefinitely postpone (without the right to debate and used at an improper time) and the question of consideration, which requires a two-thirds vote and can be used only at a certain time—whereas the motion to lay on the table is not all of them, or two of them, or any one of them.

Each question has its own function, and no one has a right to use the motion to lay on the table as though it were all, or any one of several questions, which it is not, and to accomplish by a mere majority vote that for which the other questions require a two-thirds vote. In other words, to use the motion to lay on the table as a finality, and, at the same time, to cut off debate by a mere majority, is neither fair nor legal, and to use it as though it embraced several other motions, is, to say the least, a gross parliamentary impropriety, which is unjust to the question at issue, to its mover, and to the house itself. It is contrary to good parliamentary law and unfair to those who would treat the motion in a legitimate manner. As frequently misused it is a surprise and a gag, and specially vicious because of the suddenness with which it can be sprung, as though suddenly one sprang out of ambush and gave the innocent passer-by no chance for his life.

It is especially bad when the ejaculator of the motion has failed to rise, address the Chair, and regularly obtain recognition. This should never be tolerated by the Chair or the house, for, where the mover has not properly obtained the floor, or obtained it at all, the Chair is *particeps criminis* if he entertains the motion at all, and yet sometimes it is improperly done.

A worse abuse of the motion to lay on the table is to lay an amendment on the table, and, regarding that as a finality, to proceed with the main question as though the amendment had no existence, while, as a matter of fact, it had only been removed temporarily, and might be taken up at any time.

All the objections already cited against the misuse of the motion apply to this method, but there is a further principle which is violated, namely, the relation of the amendment to the motion it was proposed to amend. The main question and the amendment are so linked together that, if the main question were laid on the table, the amendment would go with it, and, conversely, if the

amendment, is laid on the table, it carries with it the main question on which it is amended, and so neither can be considered, if either has been laid on the table.

In other words, the amendment adheres to the main question, and has an existence because it does so adhere. Its roots are in the main question, and are so entwined that when the amendment is placed on the table these roots drag the main question with it, and hold it there, so that the main question cannot be considered until, with the amendment, it is taken from the table.

The principle is that all that adheres to the motion laid on the table goes with it to the table. As Speaker Reed has said, "a motion to lay on the table 'can be exercised on amendment, but the result is the same as if made generally—the whole subject goes on the table." (Reed's Rules p. 216). And again he says: "This motion, is practically a motion to suspend the consideration of a question during the pleasure of the House. It carries with it all questions connected with the special question on which it is moved. If it be moved on the main question, then all amendments go with it; if moved on the amendment, then the main question goes on the table also. This is upon the very solid ground that you cannot go on with an amendment when the main subject is no longer before the House, and cannot go on with the main question when there exist amendments liable to be called up at the pleasure of the House. When a question laid upon the table is again called up it comes up before the assembly precisely as it was prior to the motion to lay it on the table, with all the amendments and motions then pending" (Reed's Rules, p. 83).

It is a plain violation of parliamentary law to use a "statutory disposition as a final disposition, but if anybody permits the laying of an amendment on the table to be regarded as a finality, then it is a finality also as to that which adheres to it and the main question going to the table with the amendment is also finally disposed of. This is the logic of the process, but the whole method is

contrary to the principles of sound parliamentary law and of sound reasoning therefrom.

Says one parliamentary writer: "To lay a question on the table, with no intention of taking it up again, and thereby preventing all discussion, is an unwarranted violation of one of the fundamental principles of the common parliamentary law of the land, that all propositions are debatable" (N. B. Paul: Parliamentary Law, p. 94).

The absurdity of going on with the main question when its amendment is on the table will be seen if we suppose final action has been had on the main question and that later the house takes the amendment from the table. Where, then, would be that to which the amendment is related? The house would be in a ridiculous position. It may be said the house would not take the amendment from the table. This, however, is a mere surmise. It could do it, and the majority that laid it on the table might fade away and another majority with a different view might take its place. That this thing has even the shadow of a possibility shows the absurdity of the vicious practice to which objection is made.

But there is a still deeper philosophy. Thus, suppose that before the body there is a proposition to which an amendment is moved. It is plain that the main question cannot be reached and voted upon until the amendment has been finally disposed of. Now, to lay the amendment on the table, as has been seen, is not a final disposition, but a temporary disposal of the amendment, and, therefore, the main question cannot be acted upon as long as its amendment is on the table, for it has not been finally disposed of, and it still exists.

That the faulty process is an error may thus appear to anyone who will take a few self-evident points and reason from them, and a study of the best parliamentary authorities will confirm the conclusion.

Thus Jefferson, in his Manual of Parliamentary Practice, gives the true intent of the motion in question. He

says: "When the House has something else which claims its present attention, but would be willing to reserve in their power to take up a proposition whenever it shall suit them, they order it to lie on their table. It may then be called for at any time."

That a particular deliberative body tolerates, or possibly by rule recognizes, the faulty methods herein described, does not make these erroneous usages good parliamentary law. The violation of sound parliamentary practice is just the same no matter who are the erring parties. Various bodies have had mistaken methods, but, when convinced, have improved them. Bodies who have improper rules and individuals who have wrong parliamentary usages should correct them as speedily as possible. The fact that they have had them does not make them right. Where these abuses exist something should be done to remove them. Often they exist because attention has not been called to the error, and people perpetrate it innocently.

Some things can, and should, be done to check the misuse of the motion to lay on the table. Where it is a quickly sprung motion, without the mover securing and being entitled to recognition in the proper manner, the Chair should ignore both the motion and the mover, or members should vigorously object. Where the effort is to cut out the maker of a legitimate motion, and to prevent discussion, by the party who has ejaculated the motion to lay on the table, without properly securing the right to the floor, the introducer of the proposition should insist upon his own rights.

General Robert says: "The person who introduces a resolution is sometimes cut off from speaking by the motion to lay the question on the table being made as soon as the Chair states the question, or even before. In such cases the introducer of the resolution should always claim the floor, to which he is entitled, and make his speech. Persons are commonly in such a hurry to make this motion that they neglect to address the Chair and obtain

the floor. In such a case one of the minority should address the Chair quickly, and, if not given the floor, make the point of order that he is the first one to address the Chair, and that the other member, not having the floor, was not entitled to make a motion" (Rules of Order, p. 54).

Where these abuses of the motion to lay on the table exist every member who understands the law and the philosophy of the motion should object to the erroneous practices, and continue to object until, with fuller information and a better comprehension of the nature of the motion, the faulty procedure is rectified.

This may be brought about by using every proper occasion for calling attention to the right practice and explaining the philosophy underlying it, and urging that the faulty rule or usage be corrected. Then, when the erroneous method is attempted, points of order may be made, and when adverse decisions are made by the Chair, appeals can be taken and argued, for the purpose of presenting the proper form, and thus, by a good-tempered persistence and kindly reasoning in such a campaign of education, conviction as to the right practice will be secured and sooner or later the best parliamentary method will prevail.

A member entering a body should ascertain what has been its custom in this regard, in order that he may not be at a disadvantage in assuming that the right practice will prevail, and, though for a time he may be compelled to bend to an erroneous practice, he may lead the way to a full recognition of that which is right.

CHAPTER V

INCIDENTAL QUESTIONS

1. Consideration. Objection to the *Consideration of a Question* is a method of entirely avoiding any question which may be deemed unprofitable, irrelevant, or contentious. It means, Shall the house consider the proposition at all? Therefore it applies only to the main question, and consequently cannot be raised when an amendment or any other subsidiary question is pending.

Such objection can be made to any principal motion, but it can only be made when it is first introduced, and before it has been debated. It may, however, be made when a member has the floor. It cannot be raised after discussion on the proposition has actually begun, for that would be equivalent to raising the question as to whether the house would consider the matter when the house had already actually answered the question by considering it. The time to raise the question is when the matter is proposed, and not after consideration has begun or other motions have been made. So the ruling in the United States House of Representatives is that "After a question has been stated, and its discussion commenced, it is too late to raise the question of consideration." It may be raised, however, while the person who introduced the proposition has the floor, but not after he has begun the discussion.

Any member may object to the consideration, or, as it is said, "raise the question of consideration."

In doing this the member objecting may say, "I raise the question of consideration," or, "Mr. President, on that I raise the question of consideration," or use some similar form. The question does not require a second, is

not debatable, and cannot be amended, or have any other subsidiary motion applied to it.

When the question of consideration has been duly raised, the presiding officer, without waiting for remarks upon the question, immediately states and puts the question. He may say: "The question of consideration has been raised on ———. Will the house now consider it?" or, "Shall the question be considered?" or use some other equivalent form, and follow with, "As many as favor the consideration ———" and take the vote, and then, "As many as are opposed ———." If there is a two-thirds vote in the negative the whole matter is dismissed for that session; if there is not, the consideration goes on as if objection had not been made.

It should require at least a two-thirds vote in opposition to prevent the consideration, because the question of consideration is raised in order to interfere with the natural right of a question properly introduced to receive consideration.

The question of consideration should be used sparingly and never as a mere gag on a legitimate measure. If the house refuses to consider at a given time, the refusal does not hold forever, but the matter may be brought up again, for the question when put was, "Will the house *now* consider it?"

The question of consideration is usually grouped among the incidental questions, but, as it bears so directly on the main question and relates to its disposal it may be asked whether it should not be regarded as a subsidiary question.

2. Questions of Order (Appeal). It is the duty of the individual member and of the assembly to be in order. Orderliness relates to individual action and to the general procedure of the body, and what is orderly is determined by general parliamentary practice, special rules, and the sense of propriety.

It is the duty of the presiding officer to see that all the business is conducted according to the proper order.

Questions of order which may arise are, therefore, to be decided by the Chair.

The Chair has a right to call attention to anything that is out of order or improper without waiting for anyone to make reference to it, but any member may at any moment interrupt the proceedings and indicate that which is out of order. Thus, if a member notices anything in the procedure which he thinks is a violation of good parliamentary usage, or of the law of the body, he may arise, and, addressing the Chair, say, "I rise to a point of order." The chairman then interrupts the proceedings and says, "Please state your point of order." The member then states what he considers to be out of order, and the chairman decides that the point is, or that it is not, well taken, and directs the business to proceed accordingly. The question of order must be decided without debate, but the Chair may obtain the advice of members by allowing them to express their opinions upon the point; but these opinions must be given sitting, in order to avoid the appearance of debate.

If any member is not satisfied with the correctness of the decision he may appeal from it to the decision of the meeting itself. An appeal is the defense of a member against an arbitrary act or mistake on the part of the chairman. Without this right the members might be at the mercy of a despot. On the other hand, it is a defense of the presiding officer against the charge of error or partiality.

The appeal is from the Chair to the house—from the decision of the presiding officer to the judgment of the body over which he presides, and the house may sustain the Chair or it may overrule his decision, and, if the decision of the Chair is overruled, then the presiding officer must abide by and conform to the judgment of the house.

As to seconding an appeal, Cushing says it "will depend upon the rules of each assembly." The old rule of the United States House of Representatives read, "Subject to an appeal to the House by any two members." The

present rule is, "by any member." One member can take an appeal.

The member in appealing says, "I appeal from the decision of the Chair." This being seconded, the presiding officer immediately states his decision, and that it has been appealed from, and then puts the appeal under the form of the question: "Shall the decision of the Chair be sustained?" or, "Shall the decision of the Chair stand as the judgment of the assembly?"

After the question has been stated, and the chairman gives the reason for his decision, if he desires, it is open to debate, and is decided in the same manner as any other question. It is not debatable, however, if the previous question was pending at the time the point of order was raised, or, if the question relates simply to indecorum, or transgression of the rules of speaking, or to priority of business. When it is debatable no member is allowed to speak more than once, but whether the appeal is debatable or not, the chairman can state the reasons upon which he bases his decision. In some bodies the only discussion permitted is for the presiding officer to state the grounds for his decision, and for the appellant to state the reasons for his appeal. In such an arrangement the appellant should first state his case and then the Chair should reply, and the appellant should invariably have the right to state why he appeals, even if general debate is not permitted.

The presiding officer has the right to continue in the chair while the appeal is being considered, but, if the question is to be discussed, it is good taste for him to call some other person to the chair, so that he may take part in the debate, and prevent his being charged with helping to determine the matter by prejudiced chairmanship.

When the appeal is debatable the previous question and the motion to lay on the table can be applied to it; but if adopted, they affect nothing but the appeal.

To sustain the Chair does not require more than a majority vote, but even a tie vote sustains his decision, upon the principle that the decision can be reversed only

by a majority. The presiding officer, if a member, may vote to sustain his own decision. Speaker Reed notes that "All questions of order arising under an appeal must be decided peremptorily by the Chair, whose conduct may afterward be the subject of action by the assembly" (Reed's Rules, p. 135). After the vote has been taken the chairman announces that the decision of the Chair is sustained or reversed, as the case may be. If the vote does not sustain the Chair it sustains the point of order made by the member, and both Chair and meeting must be governed by it. If the Chair is sustained the proceedings are to be governed accordingly.

The presiding officer may preclude an appeal, especially if he is in doubt, by at once submitting the point of order to the meeting. An appeal is not in order when another appeal is before the house. A vote on an appeal can be reconsidered, but in the United States House of Representatives it has been decided that "Where an appeal has been decided, and by virtue of such decision a bill taken up and passed, it is too late to move a reconsideration of the vote on the appeal."

A point of order should be made as promptly as possible, and an appeal should be taken as speedily as possible after the disputed ruling.

In the House of Representatives of the United States it has been ruled that "It is too late to renew a question of order on the admissibility of a proposition which has been overruled on the preceding day, where debate has been allowed to progress on such proposition," and that "It is also too late to raise a question of order on a motion entertained without objection on a former day and entered on the Journal."

It has been decided that appeals shall not be entertained which are based upon responses of the Chair to parliamentary inquiries. They are opinions, but do not directly affect the proposition before the house, are usually not formal, and are not replies to points of order.

3. Reading of Papers. Where papers are laid before a

deliberative body for its action, every member has a right to have them once read before he votes on them; therefore, when a call is made for the reading of any paper relative to a question before the body no question need be made, and the presiding officer directs the clerk to read it as a matter of course. With the exception of papers coming under this rule, a member has no right to read, or to have read, any paper or document, without the assembly granting leave by vote, and the question of granting permission cannot be amended, and must be put to vote without debate. In some cases they may be read on consent.

When the proposed reading is evidently for information, and not for delay, it is the usual practice for the presiding officer, if the matter is pertinent, to grant permission, unless objection is made. If objection is made, leave must be obtained as above. Cushing says, "When a motion is regularly before the assembly it is the duty of the presiding officer to state it if it be not in writing, or to cause it to be read if it be, as often as any member desires to have it stated or read for his information." Matthias says, "Motions and resolutions must be read by the secretary as often as the reading is called for by any member." Speaker Reed says, "Whenever an assembly has to take final action upon a paper any member has a right to have the paper read, in order that the assembly may know what it is voting upon" (Reed's Rules, p. 136).

The phrase "Reading of Papers," however, embraces various kinds of papers other than those on which the body is to vote. As to such papers, Speaker Reed says: "If any member objects, the reading must be ordered by the assembly on motion, which motion shall be decided without debate. A paper which is not the subject on which the assembly is to deliberate and act can be read only in this way, except as part of the observations of a member in debate, and even then it must be subject to reasonable limitations" (Reed's Rules, p. 136).

The rule of the United States House of Representatives is as follows: "When the reading of a paper other than the one upon which the House is called to give a final vote is demanded, and the same is objected to by any member, it shall be determined without debate by a vote of the House." The reading of such papers "is usually permitted without question, and the member in debate usually reads, or has read, such papers as he pleases, but this privilege is subject to the authority of the House if another member objects."

Jefferson says: "Where papers are laid before the House or referred to a committee every member has a right to have them once read at the table before he can be compelled to vote on them; but it is a great though common error to suppose that he has a right, *toties quoties*, to have acts, journals, accounts, or papers read independently of the will of the House. The delay and interruption which this might be made to produce evince the impossibility of the existence of such a right. There is, indeed, so manifest a propriety of permitting every member to have as much information as possible on every question on which he is to vote, that when he desires the reading, if it be seen that it is really for information and not for delay, the Speaker directs it to be read without putting a question, if no one objects; but if objected to, a question must be put" (Manual, Section XXXII).

It has been ruled that "The reading of a report relating to a pending proposition cannot be called for after the previous question is seconded, as it would be in the nature of debate." So "on a motion to lay on the table, a demand for the reading of a paper other than the one to which the motion applied was overruled."

4. Withdrawal of Motions. After a person has made a motion or presented a proposition in some form, he may change his own mind in regard to it, or, seeing that it is likely to be defeated, he may wish to withdraw it.

According to ancient usage, the mover had no right of himself to withdraw his proposition. Thus in the British

Parliament, and in various American Legislatures, after a motion had been stated by the Chair, it became the property of the house, and could not be withdrawn without the consent of the members.

So the old parliamentary law, which was generally observed, was for the mover, if he wished to withdraw his motion, to express his desire, whereupon the chairman granted permission, if no one objected. If objection was made, leave to withdraw could only be obtained by the passage of a motion to that effect, which motion could not be amended or debated.

For a long time, however, there has been a growing disposition toward greater liberality and to give the mover a right to withdraw his motion. Thus the rule of the Pennsylvania House of Representatives has been that "it may be withdrawn by the mover and seconder before amendment or decision."

Gradually, however, the power of the seconder to restrict his principal has been obliterated, as even the necessity of a second under certain conditions has been less insisted upon, so that the mover has been conceded more power over his own motion. The result has been that at the present time the common parliamentary law recognizes the right of the mover to withdraw his motion as long as it has not been modified or affected by an order of the body. This is a good rule, for the member may perceive that his motion is unnecessary, and the withdrawal may save him from the mortification of defeat, while it also saves the time of the meeting.

The rule of the House of Representatives of the United States reads: "When a motion has been made, the Speaker shall state it or (if it be in writing) cause it to be read aloud by the clerk before being debated, and it shall then be in possession of the House, but may be withdrawn at any time before a decision or amendment." That is to say, before an amendment has been incorporated in the motion, and though an amendment may be pending.

The withdrawal of a motion has been permitted even after the affirmative vote has been taken.

In the Digest and Rules of the United States House of Representatives it is noted that "It has been held and acquiesced in by the House that a motion (or proposition) cannot be withdrawn after the previous question is ordered, that being held to be a 'decision' that the House desires to vote thereon."

So the common parliamentary law to-day is that a motion may be withdrawn by the mover before a decision or amendment, that is to say, before it has been actually amended, for a motion may be withdrawn although an amendment may have been offered and be pending, and, provided, that no order bearing upon the proposition, as, for example, the previous question, has been taken by the body.

Again, it is held that "A member having the right to withdraw a motion before a decision thereon has the resulting power to modify the motion." So Speaker Reed says, "Nothing is more common than a modification made by the mover or the acceptance by him of an amendment made by another."

When a motion is withdrawn the effect is the same as if it had never been moved. When withdrawn all that attached to it falls by the withdrawal.

5. Suspension of the Rules. Sometimes the regular rules of the body interfere with the transaction of business desired by the house at a particular moment, and the house invokes a method of temporarily suspending the force of a particular rule until the matter in question is presented, considered, and acted upon. Then the rule immediately comes into force again.

The difficulty is met by moving the suspension of the obstructing rule. This is done by a member securing the floor and saying, "I move to suspend the rule (or rules)," specifying the rule or rules intended; or by saying, "I move the rule (or rules) be suspended."

The motion cannot be debated, and cannot be amended

or have any subsidiary motion applied to it. For example, it cannot be laid on the table or postponed indefinitely. A vote on the motion cannot be reconsidered. In Congress a motion to suspend the rules for the same purpose cannot be renewed the same day; in ordinary societies it may be renewed after an adjournment, though the next meeting be held the same day. It is not in order when the body is acting under a suspension of the rules. Neither is it while the previous question is operating. Deliberative bodies usually state in their code of rules what vote is necessary to suspend the rules, and provide that it shall exceed a mere majority; for example, that it shall be two thirds or three fourths. The common usage is to require a two-thirds vote.

The rule in the United States House of Representatives is that "No rule shall be suspended except by a vote of two thirds of the members voting, a quorum being present."

Some have held that unless the rules of the body provide for their own suspension they cannot be suspended unless by general or unanimous consent, but the common practice is to permit the suspension of a rule by a two-thirds vote.

Good judgment should be used in introducing the motion to suspend, for its too frequent use tends to the destruction of the binding force of the rules. If the rules are suspended on any or every pretext, they practically cease to be rules.

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CHAPTER VI

PRIVILEGED QUESTIONS

1. To Adjourn. The most common of the privileged questions is the motion to *Adjourn*. The word "adjourn" is from the word *jour*, "a day," with the prefix *ad*. Primarily and literally, it is to a day, and, in a broader sense, to another time, with the idea, as applied to a meeting, that the business and the meeting cease until a future time, it may be a day, an hour, or a longer time or indefinitely. So it has the idea of a postponement, not as applied to a motion, but to the meeting.

So adjourn is defined as follows: "To put off or defer, properly to another day, but also till a later period indefinitely." "To suspend the meeting of, as a public or private body, to a future day or to another place." "To suspend a sitting or transaction till another day, or transfer it to another place; usually said of Legislatures, courts, or other formally organized bodies."

The power to adjourn is vested in a free parliamentary body, and the adjournment is taken on a motion offered by a member of the body. Where the body has a regular time of meeting from day to day, the simple motion to adjourn means until the time for the next regular meeting, at which time the house will reassemble and resume its business. When the intention of the adjournment is to bring the body together again at a time other than the regular day or hour, the time is indicated in the motion.

Various forms may be used. Thus: "Mr. President, I move that we adjourn"; or, "I move that the house do now adjourn"; or, "I move that the house adjourn." If agreed to, the effect of the motion is to suspend the business and close the meeting.

The simple and unqualified motion to adjourn cannot

be debated, and cannot have an amendment or any other subsidiary motion applied to it, and the vote on it cannot be reconsidered. It supersedes all other motions except "to fix the time to which to adjourn," and to this it yields.

Jefferson says, "A motion to adjourn, simply, cannot be amended, as by adding 'to a particular day,' but must be put simply 'that this House do now adjourn'; and if carried in the affirmative, it is adjourned to the next sitting day, unless it has come to a previous resolution, 'that at its rising it will adjourn to a particular day,' and then the House is adjourned to that day."

When the simple motion to adjourn has been made the Chair promptly puts the motion "that this house do now adjourn," and the body is not adjourned until the question has been put to both sides, and the presiding officer has declared the house adjourned. As Jefferson says: "If a question be put for adjournment, it is no adjournment till the Speaker pronounces it. And from courtesy and respect, no member leaves his place till the Speaker has passed on it."

If the motion to adjourn is qualified in any way the qualification causes it to lose its privileged character, and it stands as any other principal motion.

In some assemblies it is occasionally moved that the house adjourn to meet on a certain day at a certain hour. Thus, "to meet this afternoon at three o'clock." This is not the motion to adjourn pure and simple. Of it Speaker Reed says, "Such a motion would be debatable, amendable, and privileged, but could not be repeated until some business had intervened."

It is frequently said that a motion to adjourn is always in order, but this is not strictly true. Thus, if the motion to adjourn is lost, it cannot be repeated until there has been some intervening business, or at least some progress in debate. Neither can the motion to adjourn be made while a member has the floor; yet the member may, if he pleases, give way, in order that the motion may be pre-

sented. A motion to adjourn cannot be received while the yeas and nays are being called, or the house is dividing, or the members are voting on any question, or the verification of a vote is progressing, or when the previous question has been called and sustained and is still pending.

Business interrupted by an adjournment is the first in order after the reading of the minutes at the next meeting, and is to be considered as if there had been no adjournment. An adjourned meeting is the continuation of the meeting which was adjourned.

When the adjournment closes a session of a body which has more than one regular session in a year, then the unfinished business shall be taken up previously to new business at the next session as if no adjournment had taken place, provided the composition of the body has not changed, for example, by the expiration of the term of the members.

If the adjournment closes a session of a body that does not meet oftener than once in a year, or when it is an elective body, and the session ends the term of the members, the unfinished business of the last session falls, but it can be introduced as if it has never been before the body.

If the body has concluded its business, or reached the end of its session, and the intention is not to convene again until the time for the next session, the proper form of the motion to adjourn will be "That the house do now adjourn *sine die*," or, in plain English, "without day."

The joint resolution for closing the session in the United States Congress is in this form: "Resolved by the Senate and House of Representatives, that the President of the Senate and the Speaker of the House of Representatives be authorized to close the present session by adjourning their respective Houses on the ——— day of ———."

2. To Fix the Time to which to Adjourn. Another privileged question, and of higher grade than the simple motion to adjourn, is the motion to *Fix the Time to which to Adjourn.*

The motion to fix the time to which to adjourn does not adjourn the meeting, but is intended to fix the time to which the adjournment will stand when the meeting does adjourn. The form is, "I move that when we adjourn, we adjourn to meet at ———" (such a time), or that, "When the house adjourns, it adjourns to meet at ———" (such a time).

It may be amended by altering the time. It is undebatable if made when another question is before the body. If no other question is pending when it is made, it is to be treated as a principal motion, and is debatable, amendable, and may be reconsidered.

As it may be important to determine such a matter even while other matters are pending, this motion takes precedence of all other questions, and if the presiding officer has not announced the result of the vote, it is in order after the meeting has voted to adjourn, otherwise the body might be adjourned out of existence. As Speaker Reed says, "When an assembly has not fixed the date to which it shall adjourn, and it is not otherwise limited by law, an adjournment would be equivalent to a dissolution" (Reed's Rules, p. 126). Under such circumstances Speaker Reed recommends that the presiding officer refuse to entertain the motion to adjourn "unless he puts it as a motion to dissolve, which would have no priority, and, indeed, none of the peculiarities of a motion to adjourn," which "is as its name implies, a proposition to resume another day, and means an intermission."

3. To Take a Recess. Recess, from the Latin *recessus*, "a going back, retreat, departure, also a retired place, corner, retreat, etc," with the idea of repose, a cessation of labor, "an interval of release from occupation; specifically, a period of relief from attendance, as of a school, a jury, a legislative body, or other assembly; a temporary dismissal."

In a parliamentary sense a recess is a period of release for the body from its duties, usually less extended than an adjournment, though essentially of the same nature.

Some bodies fix by rule a recess in the midst of the meeting and indicate at what moment it shall begin and how long it will last, so that the recess is a standing order. In such a case when the time is reached the Chair announces the fact, and when the period ends the Chair calls the house to order and the business is resumed. Where there is no such standing rule a motion for a recess must be made and adopted. A member may say, "Mr. President, I move that the house now take a recess until" (such a time); or, "I move that this house take a recess from one o'clock this afternoon until ten o'clock to-morrow morning," or whatever time may be desired. If the motion for a recess is carried, it acts like an adjournment, the business is suspended, and the members disperse until the end of the recess time, when the body resumes its work.

4. Call for the Orders of the Day. The *Call for the Orders of the Day* is a question of high privilege, because the matters involved are of special moment, and have been designated, or ordered, by the house for a particular time, that the members may know just when it will be before the house.

Orders of the day are matters the consideration of which has been fixed for some particular day or time. This is done by a motion that the subject be made the "order of the day" for such a time, and the matter so assigned becomes the order of the day for that day or that time. If several subjects are assigned for the same day they are called "orders of the day."

In well-organized bodies there is a general or daily order of business which is usually fixed by the rules, but a special order of the day is made by a motion which fixes the specific time when it is to be taken up.

The usual form of the resolution in Congress is: "*That the ——— be made the special order for the ——— day of ———, and from day to day till the same is disposed of,*" or there may be the simpler form: "I move that ——— be the order of the day for ———" (such a day and such an hour).

When an order is made for the consideration of a subject on a particular day it becomes a privileged question for that day, for the order is a repeal, as to this special matter, of the general rule of business.

As *special orders* fix a specific time, and suspend the rules that interfere with their consideration at the time specified, it requires a two-thirds vote to make any question a special order.

A special order can be called up when the specified time is reached, even though a committee were reporting, and takes precedence of all business except the reading of the minutes.

When the hour for the order arrives the chairman announces the fact that the order of the day has been reached, or some member calls for the order of the day, and the Chair says the order of the day having been reached, the body will now proceed to consider the question assigned for this time. If there is objection, or one raises the question of *consideration*, the Chair will say: "Shall the orders of the day be taken up?" or, "Will the body now proceed to the orders of the day?" or, "Will the house now consider it?"

A call for the orders of the day supersedes every other question excepting "to fix the time to which to adjourn," "to adjourn," "questions of privilege," and a "reconsideration." But the motion to entitle it to precedence must be for the orders generally.

A motion to take up a particular part of the "orders of the day" is not a privileged question, and therefore cannot take precedence, as does the call for the "orders of the day."

If the question is decided in the affirmative, the business before the body is interrupted as by an adjournment or postponement, and the order of the day is taken up. If it is decided in the negative, the effect is to discharge the orders only so far as they interfere with the consideration of the matter then before the body, and to entitle that subject to be first disposed of.

Unless the "orders of the day" are taken up on the day specified they fall to the ground, but they may be renewed for some other day. When any subject embraced in the "orders of the day" is taken up, the body, instead of considering it at that time, can assign it, by a majority vote, to some other time.

The "orders of the day" cannot be considered before the time assigned except by a two-thirds vote.

When the "orders of the day" are taken up the questions must be considered in the exact order of their assignment.

"If there were several questions appointed for the day, each would have priority in the order of assignment, and the first one assigned would be the first one to be considered. If an hour is fixed for one of the orders of the day, when that hour arrives the business in which the assembly is engaged is suspended until the business appointed for that hour is disposed of. This is the rule, even if the business pending is itself an order of the day" (Reed's Rules, p. 190).

5. Questions of Privilege. *Questions of Privilege* should not be confused with privileged questions in general. There is to be noted an important distinction. A question of privilege is a privileged question, but all privileged questions are not questions of privilege. A question of privilege belongs to the class called privileged questions, and therefore comes under that general head, but all privileged questions are not specifically questions of privilege. Questions of privilege form a species belonging to the family of privileged questions, and, while they are one kind of privileged question, they have an individuality of their own.

Questions of privilege relate to the rights and privileges of the body, or of any of its members, and are of many kinds, as, for example, when charges are made against the official character of a member, when the proceedings are disturbed by members or strangers, or when an open window endangers the health or comfort of a member.

The rule of the United States House of Representatives is: "Questions of privilege shall be, first, those affecting the rights of the House collectively, its safety, dignity, and the integrity of its proceedings; second, the rights, reputation, and conduct of members individually in their representative capacity only; and shall have precedence of all other questions, except motions to adjourn," which motions include the motions to fix the day to which the House shall adjourn, to adjourn, and to take a recess.

Speaker Reed says: "Examples of breaches of privilege of the first class are disorder in the gallery, surrounding the assembly with soldiers or with a mob, divulging the secrets of the body, tampering with a bill. Examples of the second class are an offer to bribe a member, threats used toward a member by a witness, a duel between members" (Reed's Rules, p. 131).

Questions of privilege "relate to the safety or efficiency of the house itself as an organ for action," and matters of personal privilege relating to the rights of the individual member.

As between these two classes of questions of privilege there is an order of precedence. As the body itself is more important than the individual member, when the two forms demand attention, the question of privilege that relates to the house as a whole would have the preference over the question that relates merely to the individual member.

Questions of privilege supersede all other questions, excepting the motions to fix the time to which to adjourn, and to adjourn. If the question requires immediate action, it can interrupt a member who has the floor.

A member rising and addressing the Chair says, "I rise to a question of privilege," whereupon the Chair requests the member to state the point, and then the Chair decides whether it is or is not a question of privilege. If the presiding officer is of the opinion that it is a question of privilege he must entertain it in preference to other business. If the Chair rules that it is not a question of priv-

ilege, any member has the right of appeal on this as on any other question. If the ruling stands that it is not a question of privilege, then the business which was before the house proceeds as though no point had been raised. If it is decided to be a question of privilege it is for the body to take such action as it deems wise, and as upon any other question by motion which may be followed by subsidiary motions, and when the matter has been disposed of the body resumes the business which had been interrupted by the introduction of the question.

It is sometimes difficult to determine whether a matter presented is strictly a question of privilege, and in some assemblies great latitude has been taken by members which has been greatly to the inconvenience of these bodies, a waste of time, and an interference with the real business. In not a few instances it would seem that the announcement that the member had a question of privilege simply meant that he wanted to say something about something that interested him. Such persons need instruction as to the nature of the question of privilege and until instructed the Chair and the house should keep them within reasonable bounds.

Mr. William E. Barton says: "It is hard to set definite limits to questions of privilege. A personal explanation is not a question of privilege, though the house may so regard it if it desires, particularly if the explanation be an apology, or offered manifestly in the interests of peace. The right to rise to a question of privilege does not entitle a member with a grievance to interrupt important business with his complainings, nor to indulge in violent language nor tedious harangue. The theory of questions of privilege is that individual rights are so sacred that a member must not suffer by reason of the machinery of the assembly; and therefore in case of real grievance he may be heard briefly and courteously, even when no motion is before the house; or if the case be more urgent, while other business is pending; and if the matter be a wrong through the words of a member who is speaking, then

even while that member has the floor. But this liberty is limited in many ways, and the house will not fail to hold a member responsible for any abuse of high privilege" (Barton: Rules of Order, pp. 66, 67).

Some decisions in the House of Representatives throw light upon this subject. Thus:

"Whenever it is asserted on the floor that the privileges of the House are invaded, the Speaker entertains the question, and common fame has been held sufficient basis for raising a question; a telegraphic dispatch may also furnish a basis. But a member may not, as a matter of right, require the reading of a book or paper on suggesting that it contains matter infringing on the privileges of the House. In presenting a question of personal privilege the member is not required in the first instance to offer a motion, but he must take this preliminary step in raising a question of general privileges" (Digest, p. 285).

"Only one question of privilege may be pending at a time."

"When a member proposes merely to address the House on a question of personal privilege, and does not bring up a matter affecting the efficiency or integrity of the House as an organ for action, the practice as to precedence is somewhat different. Thus, a member rising to a question of personal privilege may not interrupt a call of the yeas and nays, or take from the floor another member who has been recognized for debate, but he may interrupt the ordinary legislative business" (Digest, p. 285).

"The Chair is of the opinion that if there is a question of personal privilege involved the gentleman ought to be heard on it, notwithstanding the fact that the previous question has been ordered on the pending resolutions" (Digest, p. 285).

"It has become the well settled practice, when a member rises to a 'question of privilege' based upon a newspaper publication, for the Chair to hold that such publication must assail or reflect upon the member in his representative or official capacity; that is connecting him

with alleged corrupt or improper influences as to pending or proposed legislation."

"When a proposition is submitted which relates to the privileges of the House, it is his (the Speaker's) duty to entertain it, at least to the extent of submitting to the House as to whether or not it presents a question of privilege."

Final action on a question of privilege need not be taken when the question is raised. It may be referred to a committee, be laid on the table, or have any other subsidiary motion applied to it. Then the subsidiary motion does not touch anything except the question of privilege. When the question of privilege is disposed of the business which has been interrupted is resumed.

CHAPTER VII

MISCELLANEOUS QUESTIONS

1. The Call of the House. A *Call of the House* is resorted to, it may be, in the midst of business for the purpose of determining the presence or lack of a quorum, ascertaining who are present or absent, and for compelling the attendance of absentees.

Business cannot be transacted without the presence of an actual or assumed quorum. An assumed quorum exists after an actual quorum has been ascertained as present, but, when by a vote or otherwise a doubt is created as to the presence of a real quorum, any member can insist on an actual quorum, and can demand that the presence of an actual quorum be ascertained. This the member may do by securing recognition by the presiding officer and making the point of no quorum, and demanding a call of the house. He may say, "Mr. President, I raise the point of no quorum!" or, "Mr. President, I demand a call of the house!"

Then the Chair states that the member has made the point of no quorum, or demands the call of the house, and directs the clerk to call the roll and note the members present who answer to their names, and, in addition the clerk may note members present who do not answer, and count them in the aggregate to make a quorum, or to ascertain the exact number present.

As ruled by Speaker Reed, and afterward sustained by the Supreme Court, the presence of a quorum makes valid any action by the body, though an actual quorum might not vote, those sitting silently being regarded as consenting to the result.

If the call of the house reveals no quorum there must be

a suspension of business, and the body may wait for the appearance of a quorum, or it may adjourn.

2. Parliamentary Inquiries are questions addressed to the presiding officer in order to ascertain the status of the business, the effect of a proposition or action, or the proper procedure at a particular time. Usually, they are more or less informal. The member may say, "Mr. President, I rise to a parliamentary inquiry," to which the Chair will respond, "The gentleman will state his inquiry."

Speaker Reed says: "Parliamentary inquiries occupy a peculiar position. They are of the nature of privileged motions, and are indulged in at the pleasure of the presiding officer to enable the assembly to understand the effect of the proposed action. The presiding officer always answers them, unless the answer would anticipate the decision of a point of order which he may prefer to have discussed before deciding" (Reed's Rules, p. 37).

The responses of the Chair are rather informal and do not have the rank of formal decisions on points of order, and as they do not necessarily determine the business, no appeal can be taken from the Chair's response to a parliamentary inquiry.

3. Renewing a Motion. Motions that have been presented and rejected may under certain circumstances be repeated, but a defeated motion cannot immediately be proposed again, for it would be renewing what the house has just decided. Sometimes, however, the same motion can be offered again after an interval of debate or a change in the status of the business.

With the exception of the motion to adjourn, no principal motion or amendment, that has been finally acted upon, can be taken up again at the same session, unless it is reached by a reconsideration. The motion to adjourn can be renewed after business or debate has intervened. The motion to suspend the rules cannot be renewed at the same meeting for the same purpose. Generally speaking, when the introduction of a motion alters the state of affairs, it is admissible to renew any privileged, incidental,

or subsidiary motion, excepting for the orders of the day, the suspension of the rules, or an amendment, for, in this case, the real question is a different one.

The rule of the House of Representatives of the United States is that "No motion to postpone to a day certain, to refer, or to postpone indefinitely, being decided, shall be again allowed on the same day at the same stage of the question." Or, as Matthias puts it: "In Congress no motion to postpone to a day certain, to commit, or to postpone indefinitely, being decided in the negative, is again allowable on the same day, in the same state of the proposition or bill. A motion to take up a particular item of business, if negatived, cannot be renewed before the intervention of other business."

For such a purpose debate is classed as intervening business, as it may change the mental attitude and create new reasons for the desired action.

A motion which has been withdrawn has not been acted upon, and can be renewed, and a motion which has been withdrawn by one member may be renewed by another.

When a committee reports a subject which was referred at the same meeting the matter stands as though it had been introduced for the first time, and not as a renewed motion.

4. Filling Blanks. Propositions are often introduced with blanks purposely left to be filled by the meeting itself, either with times and numbers, or with provisions analogous to those of the proposition itself.

Some have regarded the filling of a blank as a form of amendment, and in a restricted sense it does amend, but as it does not change anything actually proposed, in that sense it is not an amendment, but a supplementary action.

Resolutions and reports, or other papers with blanks, can be filled by suggestions without the formality of a motion, and the vote shall be taken first on the largest sum, greatest number, and remotest day, and so on until

a choice is made. The blank must be filled before the vote is taken on the resolution, or whatever may be the form of the proposition.

Where the question is simply the filling of a blank it may be regarded as an original motion which may be amended, and which must be decided before the principal question.

Of the process of taking the numbers or times in order, putting the largest sum and longest time first, Jefferson says, "This is considered to be, not in the form of an amendment to the question, but as alternative or successive originals" (Manual, Section XXIX).

The filling of blanks, however, may be done under the form of motion and amendment. That is to say, there may be a regular motion to fill the blank in a particular way, which may be followed by an amendment changing the proposition so as to read differently, and so on. Thus the practice in the United States House of Representatives "permits to be pending a second number as an amendment, a third as an amendment to the amendment, a fourth as a substitute, and a fifth as an amendment to the substitute."

Where the blank is to be filled with a form of words the ordinary method of motion and amendment by insertion is to be followed.

5. Nominations. A Nomination is a form of proposition which names a particular individual for some specified position. Each member has a right to name one person for the office or position, but not more than one. If he can vote for only one, he should not name more than one. If the vote is a voice vote, then the names must be presented and voted upon in the order of nomination. If the vote is in some other form, then the names of the nominees are presented and considered together and at once, and voted on simultaneously so as to secure an equal chance for all. On a ballot vote a member may vote for a party who has not been openly placed in nomination or nominated at all. Every member has a right to make a nomination for each position, and, therefore, it is not

permissible to move that the nominations close until every member has had ample opportunity to nominate his preference. It is a vicious practice to attempt to prevent nominations by rushing through a motion that the nominations close. Even when the nominations have been declared closed the voter is not absolutely debarred from voting for a person who has not been publicly named. A member may withdraw his nomination and nominate another, or withdraw the nomination and not present another. A nomination requires no seconding.

6. Division of the Question. A proposition, resolution, motion, or other measure before the house may be so constructed that it can be divided or subdivided into separate propositions, of which two or more could be voted on separately, and one might be adopted and the other rejected and yet there be a definite proposition.

A member might be willing to vote for one part of the pending proposition and not for another. As the matter stands in its entirety he would not vote for it, but, if he could have it divided into two or more parts, he would be willing to vote for one part while he would vote against another. So he may call for a division of the question, and state into what sections he wishes it divided.

As Speaker Reed says, The motion "must state the propositions into which it is proposed to divide the question" (Reed's Rules, p. 139).

"When a motion for a division is made the mover ought to specify in his motion the manner in which he proposes to make the division; and this motion, like every other of the nature of an amendment, is itself susceptible of amendment" (Cushing-Bolles: Rules, p. 70).

These separate parts must each be a substantive proposition and each indicated proposition becomes a separate question.

It used to require a motion to divide a question, but the modern and more expeditious practice is to divide on the demand of any member, the member indicating the divisions in the wording. In the United States House of

Representatives it is permitted "on the demand of any member." The rule reads: "On the demand of any member, before the question is put, a question shall be divided if it include propositions so distinct in substance that one being taken away a substantive proposition shall remain."

It is for the Chair to note whether the indicated divisions make substantive propositions which can severally stand by themselves. If they are not, the division cannot be granted.

The motion, or demand, for a division of the question is in order even after the previous question is ordered, for this is simply determining the order of voting.

If the proposed divisions are distinct and capable of standing by themselves, and one be adopted alone and still be an intelligible expression, then each substantive part must be put to vote, as though it were a separate proposition, so that it is possible for one part to be carried and another lost.

The voting is in the order of the divisions. If all the separate propositions are agreed to, then the original proposition stands adopted as it was prior to the division; but, if parts have been rejected and other parts are adopted, then the proposition stands with the rejected parts eliminated or stricken out.

There is a question as to whether the matter of division should be classed as a form of amendment or as an incidental question. It may be regarded as an incidental question determining the form of voting upon the proposition, not moving to strike out anything, but merely giving an opportunity to vote separately on the several parts. For convenience it is here classed as a miscellaneous motion.

7. Reconsideration. To Reconsider is to consider again what has been considered and settled. American parliamentary practice permits a motion to reconsider a decision in the affirmative or the negative, so as again to reach what has been adopted or rejected. This motion is not known in English practice, but the British Parliament

rectifies a former action by a new act. In the United States, however, reconsideration is a part of the common parliamentary law.

The reconsideration is of the vote that decided the matter in question, and the object of the motion to reconsider is to bring back to the consideration of the body a question that has been decided, but divested of its deciding vote, and to place it before the house just as it stood before the vote upon it had been taken.

The form of the motion is simple. The member may say, "I move to reconsider the action upon ———" (naming the particular matter); or, "I move that the house reconsider the vote upon ———"; or, that "the vote upon ——— be reconsidered." The motion is made and seconded in the usual way.

Not every member can make the motion to reconsider. It can be made only by a member who voted on the prevailing side when the final vote was taken. Sometimes it has been said the mover must have voted with the majority, but the prevailing side is often a minority. For example, the measure may have been lost by a tie vote. In that case there is no majority on either side, but the prevailing side was the negative, and it would be necessary for the mover to come from the negative side, though it did not have a majority of the voters. Or, if the vote was a count vote requiring a certain proportion, as, for example, two thirds, to carry a measure, and the proposition was lost because of failure to receive the necessary two thirds, then the mover may come from a minority. Thus, if the measure received one less than two thirds, and the negative one more than one third, the proposition would be defeated, and the mover must come from the minority of one third plus one, for that was the prevailing side. If the vote was not by yeas and nays, the Chair may ask the member who proposes to make the motion to reconsider whether he voted with the prevailing party. The principle of requiring the motion from the side that had prevailed is just, for it would be useless for the house to take

time for a reconsideration, if no change of mind had occurred among those who had determined the decision when the former vote was taken.

When the motion to reconsider may be made is a matter that demands careful study. To make it possible to introduce this motion at any time, no matter how remote the period, would cause excessive uncertainty and would throw the work of the body into confusion. Something must be supposed to be settled, and hence there should be a limit on the time when a reconsideration may be moved, and this should not be a long time after the final vote had been taken on the measure. The reconsideration, if taken at all, should be taken soon, for if reasons for the reconsideration are not discovered soon they are not likely to exist. There should be a reasonable time, but it should have a limit, and, after this reasonable period, if the act is not satisfactory, it may be annulled by a motion to rescind or repeal.

Each body should have a special rule determining the period within which the motion to reconsider might be made, but where there is no special rule to regulate the matter the members should insist on the principle of promptitude.

In the United States House of Representatives the rule is: "When a motion has been made and carried or lost, it shall be in order for any member of the majority ['construed to mean any member of the prevailing side'], on the same or succeeding day, to move for the reconsideration thereof." Speaker Reed says, "A motion to reconsider must be made on the day on which the action sought to be revised was had and before any action has been taken by the assembly in consequence of it" (Reed's Rules, p. 151).

The common rule is that the motion to reconsider must be made on the same day that the question was decided, or upon the succeeding day, but the motion to reconsider need not be acted upon that day. The time when the motion must be made should be specified in the rules of

every society. If there is no special rule, "a motion to reconsider may be made," as Cushing states, "at any time" "precisely like any other motion, and subject to no other rules" (Cushing: *Lex Parliamentaria Americana*, p. 506).

When the motion to reconsider properly applies to a vote it can be made during the day on which the said vote was taken, when any other business is before the house, even when another member has the floor, or the meeting is voting on the motion to adjourn, but action on the motion cannot be taken to interfere with current business, but must be deferred until the business then before the house is disposed of.

It has been decided in the United States House of Representatives that "It is in order at any time, even when a member is on the floor, or the highest privileged question is pending, on the same or succeeding day, to move a reconsideration and have it entered, but it cannot be taken up and considered while another question is before the House."

In such a case the motion is made and seconded and entered upon the minutes, then the business before the house proceeds, and the motion to reconsider is held over to be called up at any time before the close of the session. As soon as the subject interrupted has been disposed of, the reconsideration, if called up, takes precedence of all other motions except to adjourn or to fix the time to which to adjourn, and the consideration of a Conference report.

A motion to reconsider may be applied to most questions, but there are some important exceptions. When the motion is applied to a vote on a subsidiary motion it takes precedence of the main question. It yields to incidental motions and all privileged questions, except for the orders of the day. A motion to reconsider may be laid on the table.

In the United States House of Representatives it has been decided that: "A vote to lay the motion to recon-

sider on the table does not carry with it the pending measure." "A motion to reconsider the vote ordering the yeas and nays is in order, and the vote may be reconsidered by a majority." "A negative vote on a motion to lie on the table may be considered."

When the motion to reconsider **cannot be made:** The motion to reconsider can be applied to votes on all other questions, excepting on motions to *adjourn* and to *suspend the rules*, and affirmative votes on motions to *lay on the table* or to *take from the table*.

A question cannot be reconsidered more than once. When, as the result of a vote, anything the body cannot reverse has been done, that vote cannot be reconsidered. It cannot be after the thing voted has been executed. One of the rules of the United States Senate is that no motion to reconsider a matter that has gone out of the possession of the Senate shall be in order. On the same principle, when the matter proposed to be reconsidered has passed from the control of the meeting, the motion to reconsider should not be received. When the previous question has been partly executed it cannot be reconsidered.

The following decisions in the United States House of Representatives are suggestive: "Where a vote ordering the yeas and nays is reconsidered, and the yeas and nays are again ordered, a further motion to reconsider that vote is not in order." "A motion to reconsider a vote laying a motion to reconsider on the table is not in order." "A motion to reconsider a vote by which the House refused to adjourn is not in order." "Nor can a vote on a motion to suspend the rules be reconsidered." "A vote on the reconsideration of a vetoed bill cannot be reconsidered." "It is not in order to move a reconsideration of a vote sustaining a decision of the Chair after subsequent action has resulted from such decision which it is impossible for the House to reverse." "Where a motion to reconsider has once been put and decided it is not in order to repeat the motion. But it is otherwise where an

amendment has been adopted since the first reconsideration." Having been amended it becomes a different measure.

A vote on an amendment, whether carried or lost, which has been followed by a vote on the motion to which the amendment was proposed, cannot be reconsidered until after the vote on the original motion has been reconsidered.

Generally speaking, the motion to reconsider is **debatable,** for reasons must be shown why the matter should be considered again, but it is debatable or not just as the question proposed to be reconsidered is debatable or undebatable. So it has been decided that "A motion to reconsider is not debatable, if the question proposed to be reconsidered was not debatable." But the fact of a question having been decided under the operation of the previous question does not prevent debate on the motion to reconsider, if the original question was otherwise debatable" (Digest of the United States House of Representatives). If the motion to reconsider is debatable, then it opens up for debate the entire subject which it is proposed to consider.

The motion to reconsider cannot be amended. If the *previous question* is ordered while this motion is pending it affects only the motion to reconsider. The motion to reconsider can be laid on the table, and, in such instances, the last motion cannot be reconsidered. If laid on the table, the reconsideration can, like any other motion, be taken from the table, but possesses no privilege. When the motion to reconsider is laid on the table it does not carry with it the pending measure.

Frequently this plan of laying the motion on the table is resorted to by the friends, or, it may be, by the foes, of a measure to prevent its reconsideration.

In some bodies sometimes both these motions are combined, but then they must be acted upon separately. As a matter of good taste and propriety this, however, may be deemed as doubtful as for a person to present a propo-

sition and, at the same time, move the previous question.

In the United States House of Representatives there is a tolerated usage permitting a friend of a bill that has been passed to move a reconsideration and at the same time that this motion lie upon the table, for the purpose of making it difficult or practically impossible to reconsider and reach the bill. This usage, however, should not be regarded as a part of general parliamentary law, but as a peculiarity arising out of a special rule adopted by the body itself and therefore not to be followed by bodies in general.

To make at once a double motion, or to make two motions at the same time, is a violation of common parliamentary law which insists on "one thing at a time." Of course, under general parliamentary law, whatever is laid on the table can be taken from it, and so the reconsideration could be reached, but the double motion method makes it more difficult in a body that has peculiar usages of its own, and this making of two motions at once should not be countenanced.

The **effect of a reconsideration.** When the motion to reconsider is before the body it has a suspensive effect. As one decision puts it, "The effect of the pendency of a motion to reconsider, according to the universal usage, is to suspend the original proposition."

If the motion to reconsider is agreed to, then the question which the meeting has decided to reconsider is in the exact position it held just before the vote was taken, and, if debatable, it can be discussed as though no vote had been taken; and, as has been seen, though it may have been voted upon under the previous question, it comes up divested of that question, and is as debatable as it was before the previous question was ordered, and as susceptible to amendment or other action as it was before the deciding vote. In other words, the situation is just the same as it was just before that vote was taken. Hence if, in the former discussion, a member exhausted his privilege of debate, he cannot discuss it further without

permission, but he may manage to present his views during the consideration of the motion to reconsider.

As Robert says: "The effect of making this motion is to suspend all action that the original motion would have acquired until the reconsideration is acted upon; but, if it is not called up, its effect terminates with the session, provided that, in an assembly having regular meetings as often as monthly, if there is not held upon another day an adjourned meeting of the one at which the reconsideration was moved, its effect shall not terminate till the close of the next succeeding session. But the reconsideration of an *incidental* or *subsidiary motion* (except where the vote to be reconsidered had the effect to remove the whole subject from before the assembly) shall be immediately acted upon, as, otherwise, it would prevent action on the main question. As long as its effect lasts (as shown above) anyone can call up the motion to reconsider, and have it acted upon, excepting that, when its effect extends beyond the meeting at which the motion was made, no one but the mover can call it up at that meeting."

The motion to reconsider having passed, it is equivalent to an order of the house that the consideration of the subject in question be at once resumed. So it has been decided that "According to the uniform practice, where a motion to reconsider has been passed in the affirmative, the question immediately recurs upon the question reconsidered."

If the motion to reconsider prevails, the chairman at once announces the fact, and says, "The question now recurs on the adoption of the resolution" (or whatever it may be), whereupon the members proceed with the question as it was just prior to its former decision.

8. Rescind or Repeal. To *Rescind* or *Repeal* is a method for abrogating or making void an action after it has become too late to reach it through a reconsideration. At any time thereafter an act may be annulled by passing a motion or resolution to rescind or to repeal that particular action.

To rescind is literally to cut off; or, as it might be phrased, to cut out; or, as it has been defined, "To abrogate; revoke; annul; vacate as an act, by the enacting authority or by superior authority; as to rescind a law, a resolution, or a vote; to rescind an edict or decree; to rescind a judgment."

To repeal is to call back, to recall, and so, "To revoke; abrogate, as a law or statute." One may speak of rescinding a resolution, an order, or an act, and of repealing a law, or an act repealing an act or statute. The method is by motion, resolution, or act.

A member may say, "Mr. President, I move to rescind the resolution" (or whatever it may be); or, "I move that ——— be rescinded," and the Chair in stating the question may say: "It has been moved and seconded that [stating what] be rescinded"; or, "It is moved to rescind ———," and put the vote for and against. Or in a more formal manner a member may present "An act to repeal (or rescind) ———."

The motion is not privileged, but simply has the standing of any ordinary new resolution or principal motion.

It is debatable and opens to discussion the matter which it is proposed to rescind.

The effect of rescinding or repealing is to annul, cancel, and make void whatever has been rescinded or repealed, so that it stands as no law, act, order, resolution, or whatever the form of the proceeding may have been. In other words, it has been abrogated and is henceforth without force.

PART V

PARLIAMENTARY PRECEDENCE

CHAPTER I. Precedence of Motions

CHAPTER I

PRECEDENCE OF MOTIONS

"Precedence" and "precede," from the Latin *præcedere*, "to go before," have the idea of prior place, first in order, and so to take precedence, to come before, as with superior rank, and prior claim to attention. *To take precedence* is a much-used phrase in parliamentary law as applied to motions. For example, it is said that one motion takes precedence of another motion. To use an accepted expression, one motion has "the right of way" as against another motion.

Motions vary in their relative grade and in their right of preference or precedence. Thus some motions may be presented and be in order when other motions already are before the body, and there may be a motion so high in relative rank that over it no other motion can take precedence, or, at a particular time, even have an equal standing. In other words, while it may be offered though some other motion is pending, no other motion can be offered when it is under consideration.

While there is a general order of business there is also a settled order of precedence in the making and consideration of motions.

By *precedence* is meant the superiority of one motion over another motion, which permits it to be presented when another motion is before the house. When a motion or motions may be pending, and yet another motion can be made, it is said to *take precedence*. When a motion is thus superseded by a superior motion it is said that it *yields to it*. When a motion of higher rank is made, direct action on the lower motion or motions is suspended, and the action is first on the superior motion. In consequence of this order of precedence, when a higher

motion is pending, a lower one cannot be made, but a superior motion can be made when one inferior to it is pending.

For the sake of uniformity and propriety of action there is a settled order of precedence or superiority, so that it may be known what motion can take precedence of, or supersede, another or others. Generally speaking, this order is not arbitrary, but has been tested by experience, and will commend itself to those who reflect.

At the base of all the motions is the principal or main motion. Usually it is made when no other motion is before the house, but now and then, when another matter is before the body, a new motion may, for the time being, become *a* main question.

The principal or primary motion generally, however, at the beginning stands alone, but it may be followed by a motion, or a number of motions, which transform the primary motion into the main question, as related to themselves, and which hold the main question in abeyance until they are settled. In that sense they temporarily supersede the principal motion, and in that sense take precedence of it.

This is easily seen in the force of an amendment, or a number of amendments, which may be presented while the main, or primary, question is pending. For action they precede, or come before, and must be decided before the main question can be decided. So the amendment to the amendment must be settled before the amendment can be reached, and the special form of an amendment, called the substitute, must be acted upon before the main question can be adopted or defeated.

These are simple illustrations of how certain motions may take precedence of other motions. But there are other classes of motions that take precedence of any or all the motions just specified, and they vary in rank among themselves.

In each case there is some good reason in the nature of things why the question taking precedence should have

the preference—why it may be presented and considered when other motions are pending, and why it should be considered and decided first.

While a main question, with pending amendments, is before the house, a motion for the reading certain papers might be made. This takes precedence and has the right of way and must first be considered and disposed of, and while it is pending no amendment to or substitute for the main question can be offered because, so to speak, the way is blocked by the incidental motion for the reading of the papers. But there might be an intervening motion of higher rank that could be offered while the motion for the reading of papers still was before the body. Thus one might present a question of privilege relating to the assembly itself which would have to be considered. Then someone might move that this matter be postponed to a day certain, and, before that was settled, a motion might be made to adjourn, and before the Chair announced the result of the vote a member might move to fix a time to which the body shall adjourn, a motion which might indeed be necessary to preserve the existence of the body.

Thus motions may take precedence of each other according to the difference in their rank, for which difference there is a reason in the nature and purpose of the several motions. Thus a little thought will show why the motions to adjourn, and to fix the time to which to adjourn, have such high rank and do not yield in precedence to any other motion.

A general statement of the order of precedence is as follows: *Subsidiary motions* take precedence of the *principal motion; incidental motions* take precedence of the *principal motion* and of *subsidiary motions;* and *privileged questions* take precedence of the *principal motion, subsidiary motions,* and *incidental motions.*

So, conversely, *incidental motions* yield to *privileged questions; subsidiary motions* yield to *incidental motions* and *privileged questions;* and the *main question* yields to

subsidiary motions, *incidental motions*, and *privileged questions*.

It is to be remembered, however, that subsidiary motions—for example, motions to amend—may be applied to other motions as well as the primary motion. In such a case the other motion has become *a* main question, in relation to the subsidiary question though not *the* main question or principal motion.

Incidental questions take precedence of the questions which give rise to them, and therefore must first be decided. They yield to *privileged questions*, and cannot be amended, but they may be applied to the various classes of motions.

No subsidiary motion can be applied to an *objection to the consideration of a question*, or to a motion to *suspend the rules*.

The motion to *lay on the table* and the *previous question* can be applied to an *appeal*. if the *appeal* is debatable.

Privileged Questions take precedence of all others, but they have degrees of precedence among themselves. *To fix the time to which to adjourn* has the highest degree of privilege, but an amendment may be applied to it. *To adjourn* yields only to the former motion. It cannot be amended or have any other subsidiary motion applied to it. *Questions of privilege* yield only to the two motions just mentioned. They may have subsidiary motions applied to them.

A call for the *orders of the day* yields only to the three above mentioned, *privileged questions*, and a motion to *reconsider*. The question cannot be amended.

Speaking of subsidiary motions, Robert says, "Any of these motions (except to amend) can be made when one of a lower order is pending, but none can supersede one of a higher order."

The motion to *postpone indefinitely* is an apparent exception, as it does not yield to the motion to *amend*. Matthias says, "The motion to postpone indefinitely cannot be amended, nor superseded by a motion to commit,

or to amend the original proposition, but must first be decided."

It must not be supposed, however, that all the motions below a given motion will be before the house at the same time.

The motion to *reconsider* can be made when any other question is before the body, but it cannot be acted upon until some disposition has been made of the business before the body. It must be called up afterward, and when called up it takes precedence of all motions, except motions to adjourn.

Cushing says, "It is a general rule, with certain exceptions, that subsidiary motions cannot be applied to one another," but that "a subsidiary motion to carry out and improve another may be applied to that other, but a subsidiary motion to dispose of or suppress another is not admissible."

Robert says, "They cannot be applied to one another, except in the following cases: (*a*) the previous question applies to the motions to postpone, without affecting the principal motion, and can, if specified, be applied to a pending amendment; (*b*) the motions to postpone to a certain day, and to commit, can be amended; and (*c*) a motion to amend the minutes can be laid on the table without carrying the minutes with it."

Then there are motions that belong to the same rank, and, if one is pending, another of the same rank cannot supersede it.

Speaker Reed thus classifies subsidiary motions in their order of precedence:

"First Rank—Question of consideration.

"Second Rank—To lay on the table.

"Third Rank—To postpone to a day certain.

"To commit or recommit.

"To postpone indefinitely.

"For the previous question.

"Fourth Rank—To amend."

The question of consideration "takes precedence of all

motions except points of order" (Reed's Rules, p. 119), but if the debate has been permitted to proceed, even by the mover of the main question entering upon the expression of his views, then it is too late to raise the question of consideration.

If the principal question is considered it would be in order to entertain a motion to lay it on the table, and that motion would have "precedence over all other remaining subsidiary motions" (Reed's Rules, p. 120); that is to say, no other subsidiary motion can be made until the motion to lay on the table has been decided. It "takes precedence of all other motions except the privileged motions and the motions to suspend the rules" (Reed's Rules, p. 145).

Speaker Reed says: "It will be seen that in the third rank there are placed four motions. They are placed together because they are of equal rank and neither can displace the other. The one first moved must be the one first disposed of before either of the others will be in order. For example, if a motion to postpone of either kind is pending, a motion for the previous question cannot be received, nor a motion to commit. So if a motion to commit is pending, a motion to postpone cannot be received. So, also pending the previous question, a motion to commit or postpone would not be admissible" (Reed's Rules, p. 120).

Of course it is not admissible to move one subsidiary question as a substitute for another. Thus it would not be proper to move an indefinite postponement as a substitute for a motion to postpone to a day certain. A substitute is for the main question.

Of the subsidiary motions, Speaker Reed places the motion to amend in what he terms the "Fourth Rank," and says, "The motion to amend has the last place and priority over no other motion" (Reed's Rules, pp. 120, 121). But it may be applied to certain other motions, as, for example, the main question, the motion to postpone to a certain time, the motion to refer, and various forms of the motion to amend.

As to the applicability of subsidiary motions to each other, Speaker Reed says: "As a rule, subsidiary motions cannot be applied to each other. The motion to amend or commit cannot be applied to lay on the table, to the previous question, to the question of consideration, or to the motion to indefinitely postpone. The motion to commit cannot be applied to the motion to amend or to the motion to postpone to a day certain. Nor can the previous question, or either of the postponement motions, be applied to each other or any of the other motions.

"But there are the following exceptions: A motion to amend can itself be amended, as can also the motion to postpone to a day certain, and the motion to commit. In the latter case the amendment may add instructions or change the committee" (Reed's Rules, p. 121).

But even after the previous question has been ordered (Robert: Rules of Order, p. 53) it is in order to move to lay on the table, to refer or recommit, or to divide the question. These motions, however, do not bear upon the previous question, but upon the main question, and further the purpose of the previous question in reaching a decision without debate.

"The adoption of a superior motion while inferior motions are pending has the same effect upon them as it has upon the main question. If it is not adopted the result is the same as if it had not been made, except that it cannot again be offered until such lapse of time and change of condition as makes it a new motion. For example, a motion to commit adopted sends pending amendments to the committee as well as the main question. The previous question, when adopted, requires a vote on pending amendments first. A motion to lay on the table, if agreed to, carries to the table previous question, motion to commit, amendment, or postponement, or any other motion which may be pending" (Reed's Rules, pp. 121, 122).

Incidental Questions bear incidentally upon the *Main Question*, and to other questions and naturally, but incidentally, take precedence of the principal and also sub-

sidiary questions, and hold them in abeyance until the incidental questions are decided or what they propose is completed.

Privileged Questions, as their title suggests, have special privileges and, hence, take precedence of other questions.

"The motions principal (or main question) and subsidiary already enumerated and described are motions relating strictly to the progress of the particular business before the assembly . . . " (Reed's Rules, p. 122).

"There are, however, other motions, properly called privileged motions, which do not concern themselves with the progress of the main question, but with the existence of the assembly, the performance of its functions generally, its police and good order. They concern only incidentally the main question, which is for the moment before the assembly, and that only so far as they delay action by the taking up of the time. Yet these very motions, which do not concern the business before the assembly, have precedence over all others. This is because they are essential, not only to this particular business, but to the existence of the assembly itself as a working parliamentary body" (Reed's Rules, p. 123).

The rule of the United States House of Representatives as to precedence of motions is as follows: "When a question is under debate, no motion shall be received but to adjourn, to lay on the table, for the previous question (which motions shall be decided without debate), to postpone to a day certain, to refer, or to amend, or to postpone indefinitely, which several motions shall have precedence in the foregoing order."

Formerly the rule specified the motion "to fix the day to which the House shall adjourn," and "to take a recess," but common parliamentary law would regard them as forms of adjournment.

The following is the way motions in the different classes are usually listed:

PRIVILEGED QUESTIONS

To fix the time to which to adjourn.
To adjourn.
To take a recess.
Questions of privilege.
Orders of the day.

INCIDENTAL QUESTIONS

Questions of order (appeal).
Objection to the consideration of a question.
The reading of papers.
Leave to withdraw a motion.
Suspension of the rules.

SUBSIDIARY MOTIONS

To lay on the table.
The previous question.
To postpone to a certain day or time.
To commit (or recommit).
To amend.
To postpone indefinitely.

MAIN QUESTION

The principal motion.

A glance will show that this arrangement places the motions having the highest precedence at the top and the lowest at the bottom. While the gradation between is not the most definite in every particular, yet it is generally suggestive. The subsidiary motions are above the main question, the incidental questions are above the subsidiary, and the privileged questions are above all and take precedence of all, but the incidental may apply to different classes of motions, as may the motion to amend.

General Henry M. Robert, in giving the order of *Precedence of Motions*, says:

"The ordinary motions rank as follows, and any of them (except to amend) can be made while one of a lower

order is pending, but none can supersede one of a higher order . . . :

"To Fix the Time to which to Adjourn.
"To Adjourn (when unqualified).
"For the Orders of the Day.
"To Lay on the Table.
"The Previous Question.
"To Postpone to a Certain Time.
"To Commit or Refer.
"To Amend.
"To Postpone Indefinitely.

"The motion to reconsider can be made when any other question is before the assembly, but cannot be acted upon until the business then before the assembly is disposed of, when, if called up, it takes precedence of all other motions, except to adjourn, and to fix the time to which to adjourn. Questions incidental to those before the assembly, take precedence of them and must be acted upon first" (Robert: Rules of Order, p. 10).

PART VI

COMMITTEES AND COMMISSIONS

CHAPTER I. Committees

CHAPTER II. The Committee of the Whole

CHAPTER III. The Quasi-Committee

CHAPTER IV. Commissions

CHAPTER I

COMMITTEES

A **Committee** is usually a small number to whom is referred or committed the consideration of some matter by the main body, that it may be carefully studied and later be reported upon to the full body.

Much of the work in deliberative bodies is done by *Committees*. Sometimes the work is preliminary to the introduction of a measure in the house and sometimes it is intermediate, as when a matter presented to a body is referred to a committee before final action. The principle is that of division of labor. It is a saving of time, as the committee meets usually when the main body is not in session, and allows a freedom of procedure which could not be tolerated in the main body, and also a fullness of investigation that would scarcely be proper in the presence of the public.

Speaker Reed has said: "The committee is the eye, and ear, and hand, and very often the brain of the Assembly. Freed from the very inconvenience of numbers, it can study a question, obtain full information, and put the proposed action into proper shape for final decision. The appointment of a committee also insures to the assembly the presence during the debate of members who have made some examination of the question" (Reed's Rules, p. 53).

There are two classes of committees: *Standing Committees* and *Special* or, as they are sometimes called, *Select Committees*.

Standing Committees are usually ordered by the laws of the body and are to consider questions with which the body must deal at every session, and they continue until

the end of the session or term, and hence their name—*Standing Committees.*

Special or *Select Committees* are for the purpose of considering special matters that may be presented, and are not covered by the *Standing Committees*. They are created when the occasion arises and continue according to circumstances.

The *composition* of a committee may be determined by the permanent law of the body, or by the immediate direction of the body itself where there is no law to the contrary. Usually, the law of the body regulates the appointment or election of *Standing Committees*.

The first thing is to determine whether the house desires to have the committee, the second thing is to decide how many will be on the committee, and the third how the members of the committee shall be secured.

Thus, in regard to *Special* or *Select Committees*, the first thing necessary is the motion and vote ordering the committee. When this is done the presiding officer will ask, "Of how many shall the committee consist?"

If several numbers are named, the vote will be first on the highest, and so on to the smallest, or until a number is found which is satisfactory to the majority.

If there is not a standing rule giving the presiding officer the power of naming the members of committees, unless otherwise ordered in a particular case, the Chair will say, "How will you obtain your committee?" Someone may move that the Chair appoint. If such a motion is not made and carried the presiding officer calls upon the assembly to nominate, and he puts to vote the first name he hears, and so on singly, the meeting approving or rejecting by a vote taken in the usual manner, until the requisite number is obtained. Sometimes the number, and even the names, are included in the original motion for the committee, but the wholesale nomination of a committee is not usually for the best interests of the whole body, and it is not good taste, nor good law, for one individual member to monopolize the right that belongs to

the whole house by nominating all the members of a committee. Each member is entitled to make a single nomination, and then it would be good taste for him to permit the other members to freely do the rest of the nominating. The wholesale nomination by a single member may be taking the practical control of the body and predetermining the result. It is true that the house could reject the nominations, but in ordinary bodies members would not like to assert themselves in a way that might be construed as a reflection upon the indicated individuals, and it is not well to put them into such a quandary.

Frequently the law specifically provides that the presiding officer shall appoint the members of all committees. Sometimes it calls for a committee to nominate for and arrange the committees. In other instances the law provides that the committees shall be filled automatically or by the delegates from given sections. Where there are no such provisions in the constitution, the by-laws, or the standing rules, the whole matter is within the control of the body itself, and it may leave the nomination or appointment to the Chair, or the nominations may come from the members on the floor.

It is customary, as a matter of course, to put upon the committee the mover and seconder of the motion for the creation of the committee, and to name the mover first.

When the committee is for action it should be small and be composed of those who are favorable to the proposed action; when for deliberation, the committee should represent all sides of the question. This, however, is at the discretion of the body. Jefferson was of the opinion that "None who speak directly against a measure are to be of the committee," for "The child is not to be put to a nurse who cares not for it."

The assembly may or may not excuse one who has been selected from serving on the committee.

The presiding officer in a committee is called the chair-

man and should be addressed as "Mr. Chairman," and be referred to by the same title.

Unless the law otherwise directs, the **organization** of a committee is determined by the committee itself.

In some bodies the presiding officer, when he has the right to appoint a committee, has also the right of designating its chairman, whom he names first.

The chairman is sometimes indicated under the rules, but ordinarily the first named in the list of members of the committee calls the committee together, and acts as temporary chairman, until the committee meets and formally organizes by electing a permanent chairman and secretary.

This temporary chairman may ask, Whom will you have as secretary? in order that someone may keep the record from the beginning. Ordinarily, he is permitted to act as chairman through the whole proceedings, but this is merely a matter of courtesy, as every committee has the right to elect its own chairman.

When a committee first meets at the call of the temporary chairman, or by direction of the assembly, the first work will be to organize by the selection of a chairman and a secretary, unless the law provides for one or the other or both.

A committee cannot sit during a meeting of the main body without a special order to that effect from the body.

If a committee is ordered by the house to meet at a particular time, and fails to do so, the committee is closed, and cannot act without being newly directed to sit.

The committee may create subcommittees out of its members, and divide the preliminary work among them.

A committee **cannot consider** what the house has not committed to it. Its business is not to invent or to take matters from outside sources, but to study and report upon what the main body has referred to it. A committee cannot report upon a matter not committed to it. The very name "committee" indicates that its function concerns that which is committed to it and nothing else.

The house can **instruct** the committee at the time of its appointment, and even while it is in the exercise of its functions, and the committee is bound by these *instructions*, even if they wholly change the nature of the committee by charging it with inquiries quite different from those for which it was originally formed.

The house has a right to withdraw from its committee that which was referred to it. This is called discharging the committee from the consideration of the matter, and the form of the motion would be that "the committee on ——— be discharged from the consideration of ———."

This is sometimes necessary because of delays in the committee where there may be a disposition to neglect or defeat the proposition, or there may be some other good reason for recalling the subject from the committee. The effect of discharging the committee from the consideration brings the matter back to the house where it can have direct and immediate control.

The proceedings in a committee are generally, or as far as possible, similar to the proceedings in the main body, but there are a few variations.

The committee, in its deliberations, is governed by general parliamentary law, but more latitude is allowed than would be permitted in the more formal meeting of the main body; thus, after the final vote on the report, amendments may be offered and made. So, in ordinary societies, a reconsideration may be permitted at any time in the committee when every member who voted with the majority is present.

A committee is a miniature assembly, and can act only when regularly assembled, and not by separate assent. The parliamentary rule is, as Cushing states, that the presence of every member is essential, and that a majority is not sufficient to constitute a committee. It has, however, become the settled usage that, if all the members have been duly notified, a majority is necessary and sufficient to constitute a quorum, unless the number of the quorum has been fixed by the assembly itself.

"All action of a committee must be taken at a regular meeting duly called or when all are present. No action can be taken by members not in meeting assembled. The consent of all, individually, without a meeting will not render valid any action. It is conference, and after that consent, and not consent alone which is required" (Reed's Rules, p. 63).

Action on a paper in committee is as follows:

When the form or details of a paper are referred to a committee it is first read through, and then by paragraphs, and at the close of each paragraph the chairman asks if there are any amendments, and puts questions on the amendments, if proposed, but no final question on the whole. When a paper is so referred, the committee must not interline, blot, disfigure, or tear it in any manner, but must, on a separate paper, set down the amendments they have agreed upon, stating the words to be inserted or omitted, and specifically stating where the amendments are to be made. If the amendments are very numerous, the committee may report them all together in a new and amended draft.

A committee cannot reject a paper, even if opposed to it in every part, or consider that it cannot be made good by amendment, but must report it back.

They may, if they think proper, as a committee, specially state their objections, and they can make their opposition in the house as individual members. But this rule is not applicable to those cases in which the *subject*, as well as the *form*, of a paper is referred. When the paper before a committee originates in the committee the question is put on amendments to the paragraphs, as they are read, separately, but the question of agreement is reserved for the close, when the question is on agreeing to the whole paper as amended or unamended.

The *report* may be merely a statement of facts, reasoning, or opinion in relation to the subject, without any specific conclusion; or such a statement, concluding with a resolution or series of resolutions or some other specific

proposition, or it may consist merely of resolutions or propositions. Reports should be written or printed.

The *reports* of committees usually begin in a style similar to the following: "The committee to which was referred [stating the matter referred] beg leave to submit the following report"; or, "Your committee appointed to ——— would respectfully report," etc., and usually closes with "All of which is respectfully submitted." This is followed by the signatures of all the members concurring in the report, but sometimes only by those of the chairman and the secretary. When the committee has finished its business and desires to end the sitting, the proper form is to move that the committee "*rise*," which is equivalent to the motion to *adjourn* in the main body.

The chairman or, if so directed, some other member of the committee selected by the chairman or designated by the committee, will present the report. Frequently another than the chairman is selected, for no one should represent the committee who cannot sustain the committee's report. When the report is to be made, the chairman or the appointed member, standing in his place, announces that he is ready to report as directed by the committee, and he, or any other member, may then move that the report be now received. The meeting may *receive* it then or fix upon another time for its reception. The body receives a report when it permits it to be presented. Usually a report made at the proper time is received as a matter of course without the formality of a motion. If, however, there is not common consent, but objection is made, there must be a vote, and, if the presiding officer perceives any informality in the report, he should decline to receive it without a motion. If a report is presented and receives consideration in any sense it is actually received, and then no motion to receive is needed.

A report is seldom read until it is taken up for consideration, especially if it is of any considerable length.

When the report of a committee is made or received, the committee, by that fact, is dissolved, and a motion to

discharge the committee is not necessary, but its authority may be revived by a vote, and the matter be recommitted. If it is a standing committee it is discharged from the consideration of the subject. As Speaker Reed says: "After the reception by the assembly of the full report of a select committee on the subject referred to it the committee ceases to exist. This is not true where the report is only a partial one. A standing committee after a full report, while it continues to exist, has no further control of the matter reported on without a new reference" (Reed's Rules, p. 66).

When a special or select committee has fully and finally reported on a subject the matter is in the hands of the house, and the special committee is, by the fact of having reported, discharged, or dissolved. Jefferson's rule on this point reads: "The report being made, the committee is dissolved and can act no more without a new power. But it may be revived by a vote, and the same matter recommitted to them."

The report may be placed on the calendar and take its turn in regular order, or a time may be fixed for its consideration, or it may be considered at once. If a committee has been given the right to report at any time, that implies the right to ask immediate consideration. If, however, there is more pressing business, then the house can make such adjournment as it deems wise. If anyone wishes to avoid immediate consideration, he may undertake to prevent it by demanding that the question be put upon the reception of the report. If the question is decided in the negative, then the committee must seek another opportunity. If the vote is in the affirmative, then the presiding officer directs the clerk to read the report, or to have it read, to the house. Sometimes the report is read by the chairman or secretary of the committee.

The chairman, or the member, who is the reporter of the bill, or whatever form the report has taken, is regarded as having charge of the report, and is entitled to

prior recognition. Usually, he is permitted to make an explanation of the points and meaning of the report at the beginning of the consideration.

The House can *amend*, *reject*, *adopt*, or *recommit* the report, or treat it as it could any resolution or proposition. To *receive* a report does not commit the house to any of the views or recommendations therein contained. It simply places it where it may be considered, and, as has been shown, no motion to receive is necessary if the report has been read. Sometimes it is moved to "accept" the report, or "that the report be accepted," as though that meant nothing more than to "receive" it, when in fact to "accept" has the force of "adopt." Another questionable practice is to "agree" to the report. Though it has been suggested that it may be proper to use the phrase "agree to" when the report "contains merely a statement of opinion or facts," nevertheless it would seem better to allow that phrase to be employed in reference to amendments, as we say: "As many as agree to the amendment," "As many as agree to the substitute," and "The amendment is agreed to," but on the final vote we say, "As many as will adopt," "The resolution is adopted." So the better word for final action on a report is "adopt." Thus: "As many as will adopt the report"; "The report is adopted"; to "accept" and to "adopt" a report mean the same thing, but the better word is "adopt."

Some reports are merely for information and not for action; sometimes they are merely received and filed, or entered on the journal. If the report closes with a resolution or recommendation the action is on the resolution and the motion is to adopt.

The reporter for the committee, whether the chairman or a designated member, has special rights in the debate on the report both at the opening and the closing. When it is taken up the member making the report is first entitled to the floor, and he is also entitled to close the debate, when every member choosing to speak has spoken. He cannot, in any way, be deprived of his right to close

the debate, and, even if the previous question is ordered, the chairman at once assigns him the floor for that purpose.

Not only can he speak after the previous question is ordered, but because of its far-reaching possibilities, if the motion to lay the report on the table is made, he can elect to make his closing speech while that motion is pending. In other words, the common practice of to-day recognizes the right of the chairman, or acting chairman, to make the closing speech defending his report when it has reached a critical issue and is in peril. When, however, he has made that speech he has exhausted his privilege.

It is not uncommon to have a minority report. Cushing says it is not strictly parliamentary. Yet, as the minority have given the same consideration as the majority in the work of the committee, their opinion is deemed worthy of attention, and so it has become the general practice in legislative bodies to allow the minority to present their views in the form of a report. Two or more members may unite in such a report, or only one may bring in a separate report. The form is: "The undersigned, a minority of the committee to which was referred," etc. Such a report, however, is not recognized as a report of the committee. Formerly it was received and allowed to accompany the report only by courtesy, but since Cushing's day it has been recognized as a propriety and as a right, for, as has been suggested, being members of the committee, they are presumed to have as much acquaintance with the subject as the committee itself, and more than the average member of the house.

The common form is for the chairman, or acting chairman, of the committee to present the report of the committee. Then when the report is before the house for action, the representative of the minority is recognized to present the "minority report" or the report of the minority. Sometimes the chairman of the committee states that there is a minority report or that there is to be

presented a report from a minority of the members of the committee. Then the representative of the minority presents its report and it is read. This places the formulation of the minority as against the report of the majority which is the report of the committee, the intention being to induce the assembly to accept the minority report instead of the report which has come from the majority in the committee.

The matter, however, is not fully before the house until the representative of the minority, or some other member moves to substitute the minority report for the report of the committee. Then the action will be the same as in the case of an ordinary substitute moved against any resolution. If the substitution is agreed to, the minority report displaces the report of the committee. If the substitution of the minority report is not agreed to, then the report of the committee remains to be adopted, rejected, recommitted, laid on the table, or otherwise disposed of. The report may be recommitted or sent back to the same committee, or it may be referred to another committee, but usually the latter course would be regarded as an impropriety, or a reflection upon the committee that had the matter before it and on which it had reported. Only some unusual necessity would justify the sending to another committee under such circumstances.

It is a mistake to think that the minority cannot present such a report without permission from the majority of the committee. If that were so, then the minority would be at the mercy of the majority, and the majority could prevent their formulating anything. It is also an error to say that the minority cannot present such a report unless the committee has been notified by the minority that it would be presented. The minority might not be able to make up its mind until too late for such notification. Any member of the body has a right to offer a substitute for the report of the committee without notifying anybody until he arises and says, "Mr. President," when

the report is being considered. If a single member can do that, certainly one or more of a minority can do it.

Boards of managers, trustees, and similar bodies, for practical purposes come under the head of standing committees in making their reports.

Jefferson, in his Manual, says: "A committee **meet** when and where they please, if the House has not ordered time and place for them, 6 Grey, 370; but they can only **act** when together, and not by separate consultation and consent—nothing being the **report** of the committee but what has been agreed to in committee actually assembled. Section XXVI."

A parliamentary body, committee, board, or commission acts legally only when it acts in a **legal session,** and individual judgments, or consents expressed outside the regular and legal session cannot be taken as the legal action of the main body, board, committee, or commission. There must be the vote in the session where the assembled members have deliberated together, and, in these deliberations, have together heard the facts presented and the reasons given *pro* and *contra*. Consents and signatures given outside the meeting, by individuals who were not present in regular session, where they could hear and know what was said and done, are irregular and without legitimate force.

CHAPTER II

THE COMMITTEE OF THE WHOLE

Most persons easily comprehend the idea of a committee, but some are confused by the title, the **Committee of the Whole.** They may ask for information. " 'A committee of the whole' what?" There seems something lacking which should be supplied, and it is quite proper that the beginner should ask " 'of the whole' what?" It is made clearer by giving the full title—"The Committee of the Whole House," and that means that it's a committee composed of the entire membership of the body. It is the entire membership resolved into a committee, though a very large committee, acting like a committee, and under the forms and liberties of a committee.

When the main body has to consider a subject where the subject-matter is not well digested or in proper form for definite action, or it is deemed advisable to consider the subject without all the formalities and restrictions of the main body, and yet does not wish to refer to a small committee, it can secure the freedom of an ordinary committee by referring the matter to the **Committee of the Whole,** that is to say, to a committee consisting of the entire membership.

This committee may consider anything the house may desire. It may be a proposition framed in the house, a bill enacting a law, or a report that has come from another committee. Speaker Reed has said that "The Committee of the Whole is useful where the subject to be considered contains many items and relates to divers subjects, or needs to be settled minutely as to the language. In Legislatures bills making general appropriations and those containing items of governmental expenses are those most frequently considered in Committee of the Whole." It is

possible, nevertheless, for any sort of a measure to go to this committee, as a great variety of things may go to other committees. Its great size does not modify its character as a committee.

One great advantage of the Committee of the Whole is that it tends to prevent the house from rushing too precipitately to a conclusion on a measure before it has been thoroughly considered, discussed, and matured. The house is relieved of a hasty decision, and the very same members meet to consider the same thing over again, but in the different capacity of committeemen, and with the greater latitude which is allowed. Then the Committee of the Whole, having completed the study and formulation of the measure, reports to the same individuals sitting as members of the house, the results of this freer, and, probably, fuller consideration, and the same persons proceed, under the forms of the house, to restudy and mature the measure. Properly used, the Committee of the Whole House makes for safer legislation, as it halts the action of the house and brings the matter back in better form.

When it is desired to consider a question in the Committee of the Whole it is done by a motion, "That the assembly do now resolve itself into a Committee of the Whole, to take under consideration" (whatever the subject may be). If this motion is carried, the presiding officer names a member to act as chairman of the committee, while he takes a place among the members. This committee, however, it has been held, like other committees, has the right to elect its chairman. If objection is made to the one named by the presiding officer, or to one named by one or more of the members, a formal election must take place, and the presiding officer takes the chair until the assembly makes choice of a chairman for the committee.

Speaker Reed on this point says: "In modern times the presiding officer of the assembly when the assembly resolves itself into the Committee of the Whole names the chairman, and his choice is almost invariably acquiesced

in. It is sometimes said that the Committee of the Whole, like other committees, has the right to select its own chairman. Although this statement has the help of distinguished authority, it is contrary to the English precedents and to sound parliamentary sense. If there be any question about the chairman, the assembly should settle it, and if the question is raised after the committee is in session, the committee should rise, report to the assembly, and take its direction. The appointment of the chairman being made before the assembly goes into committee, the proper time to raise any question of that sort is then" (Reed's Rules, pp. 67, 68). To say the least, the more dignified way is for the presiding officer to name the chairman of the Committee of the Whole. As it is the whole house in committee, it could be held that the presiding officer of the house might continue as chairman of the house in committee. The rule of the United States House of Representatives is as follows: "In all cases, in forming a Committee of the Whole House, the Speaker shall leave his chair after appointing a chairman to preside." Jefferson said: "They generally acquiesce in the chairman named by the Speaker; but, as well as all other committees, have a right to elect one, some member, by consent, putting the question." In either case of house or committee the members voting are the same.

The clerk of the committee is the clerk of the assembly, but he makes no record of the proceedings in the committee for the journal of the house. The temporary record he keeps as secretary of the committee is to aid the chairman and the committee in the orderly conduct of the business in committee. What goes on the journal of the house is the report which the committee makes to the house.

Generally, the assistant clerk acts as secretary of the committee. The clerk should keep a memorandum of the proceedings for the use of the committee, but he records on the minutes of the house only the report the committee makes to the assembly.

On account of its size and nature the Committee of the Whole House meets in the chamber or hall occupied by the main body, though it is not the house, but the members of the body in committee.

In large assemblies the chairman of the Committee of the Whole usually does not take the chair of the presiding officer, but occupies a seat at the clerk's table. That used to be the usage in Congress, but now in the House "The chairman of the Committee of the Whole seats himself in the Speaker's chair," which, in view of the size of the body, gives him a better command of the committee.

The quorum in the Committee of the Whole is the same as the quorum for the house, though, as it is a committee, the creature of the house, the house could fix any number to suit itself.

The presiding officer of the assembly has the right to engage in the debate of the Committee of the Whole in the same manner as any other member, and it is his duty to remain in the room in case the committee should rise, or be broken up by disorder or want of a quorum. If the committee becomes disorderly, and the chairman cannot secure order, the presiding officer can resume his chair and declare the committee dissolved, but "When the Speaker restores order he usually yields the chair to the chairman, thus permitting the committee later to rise in due form" (Digest of the United States House of Representatives). If the committee finds itself without a quorum (which is the same as that of the assembly), all that it can do is to rise and report the fact to the assembly, "whereupon the roll is called, and if a number equal to the quorum designated for the committee responds, the committee resumes its session at once" (Reed's Rules, p. 69).

The Committee of the Whole is generally under the rules of the assembly, but there are points in which its proceedings differ from those of the assembly and of other committees; thus, the previous question cannot be moved, a motion to postpone to a day certain, or to postpone

indefinitely cannot be made, and neither can the motion to lay on the table, the committee cannot adjourn to some other time and place; it may, however, rise, report progress, but that the committee has come to no resolution; it cannot order the yeas and nays; it cannot refer anything to a subcommittee; every member may speak as often as he pleases, provided he can obtain the floor (and no one wishes the floor who has not spoken on that particular question). As Robert remarks, "The only way to close or limit debate in the Committee of the Whole is for the assembly to vote that the debate, in committee, shall cease at a certain time, or that, after a certain time, no debate shall be allowed excepting on new amendments, and then only one speech in favor of and one against it, of say five minutes each, or, in some other way, regulate the time for debate." The only motions in order in the Committee of the Whole are to amend, to adopt, and that the committee rise and report.

If the Committee of the Whole has not completed the work on a measure when it rises, the chairman reports to the house and its presiding officer that the Committee of the Whole has had under consideration the matter submitted, but has come to no resolution thereon. The old usage, at this juncture, was to ask leave to sit again, but in modern practice this is not asked.

Jefferson says: "The paper before a committee, whether select or of the whole, may be a bill, resolutions, draught of an address, etc., and it may either originate with them or be referred to them. In every case the whole paper is read first by the clerk, and then by the chairman, by paragraphs, pausing at the end of each paragraph, and putting questions for amendment, if proposed. In the case of resolutions or distinct subjects, originating with themselves, a question is put on each separately, as amended or unamended, and no final question on the whole; but if they relate to the same subject, a question is put on the whole. If it be a bill, draught of an address, or other paper originating with them, they proceed by

paragraphs, putting questions for amending either by insertion or striking out, if proposed; but no question on agreeing to the paragraphs separately; this is reserved to the close, when a question is put on the whole, for agreeing to it as amended or unamended. But if it be a paper referred to them, they proceed to put questions of amendment, if proposed, but no final question on the whole; because all parts of the paper, having been adopted by the House, stand, of course, unless altered or struck out by a vote. Even if they are opposed to the whole paper, and think it cannot be made good by amendments, they cannot reject it, but must report it back to the House without amendments, and there make their opposition" (Manual, Section XXVI).

Jefferson also says, "The committee have full power over the bill or other paper committed to them, except that they cannot change the title or subject," but "in the House of Representatives committees may recommend amendments to the body of a bill or to the title, but may not otherwise change the text." It has also been held generally in the House of Representatives "that a select or standing committee may not report a bill whereof the subject-matter has not been referred to them."

"The Committee of the Whole no longer originates resolutions or bills, but receives such as have been formulated by standing or select committees and referred to it; and when it reports, the House usually acts at once on the report without reference to select or other committees" (Digest of the United States House of Representatives).

When the committee has finished the consideration of the subject, or desires to adjourn, or to have the main body limit debate, a motion is made that the committee rise, and that the chairman (or some other member) report their proceedings to the assembly. The motion having been carried, the chairman resumes his place on the floor and the presiding officer takes his chair. Then the person designated to make the report rises and informs the presiding officer that he is ready to make the report

when the assembly shall think proper to receive it. Sometimes the formality of a motion and question as to the receiving of the report is dispensed with. Members may cry out "Now, now," whereupon the chairman proceeds, or someone mentions another time, and this may be fixed by common consent. But if there is not general consent, the time for the reception of the report should be fixed by motion and vote.

Jefferson thus states the method in Congress: "On taking up a bill reported with amendments the amendments only are read by the clerk. The Speaker then reads the first, and puts it to the question, and so on till the whole are adopted or rejected, before any other amendment be admitted, except it be an amendment to an amendment. When through the amendments of the committee, the Speaker pauses, and gives time for amendments to be proposed in the House to the body of the bill; as he does also if it has been reported without amendments; putting no questions but on amendments proposed; and when through the whole, he puts the question whether the bill shall be read a third time" (Manual, Section XXIX).

On this the House Digest says: "The procedure outlined by this provision of the parliamentary law applies to bills when reported from the Committee of the Whole; but in [later] practice it is usual to vote on the amendments in gross. But any member may demand a separate vote."

In the United States House of Representatives there are two Committees of the Whole House, namely, "The Committee of the Whole House," and "The Committee of the Whole House on the State of the Union." The phrase "State of the Union" is found in the Constitution of the United States, where it is made the duty of the President "from time to time (to) give to Congress information of the State of the Union." In the House the Committee on the State of the Union "has charge of all public bills which appropriate money or property or require appropriation thereafter of the money or property of the United States," and it may sit on any day. In it "almost anything is liable

to be debated," and "it has been frequently held that the member is not, in Committee of the Whole on the State of the Union, in general debate, confined to the subject directly before the committee unless the proposition is a special order" (Reed's Rules, pp. 72, 73).

CHAPTER III

THE QUASI-COMMITTEE

In Congress there is a form of committee work called the **Quasi-Committee.** The word *quasi* is from the Latin *quasi*, meaning "as if," "as it were." In the English use "generally implying that which it qualifies is in some degree fictitious or unreal" (Century Dictionary). In other words, it is not fully what the qualified word implies. A *Quasi-committee* is not quite a committee, though it does the work of a committee. A *Quasi-Committee of the Whole* has not gone through all the forms of such a committee, the presiding officer of the body does not name any other to preside, but retains his chair, there is not the full form of the body resolving itself into a Committee of the Whole, but the forms are supposed "as it were," and without a break the body acts "as if" it were a committee, passing from one to the other and back again without any real interval or loss of time.

Jefferson says: "The proceeding of the Senate as in a Committee of the Whole, or in quasi-committee, is precisely as in a real Committee of the Whole, taking no question but on amendments. When through the whole, they consider the quasi-committee as risen, the House resumed without any motion, question, or resolution to that effect, and the President reports that 'the House, acting as in a Committee of the Whole, have had under their consideration the bill entitled, &c., and have made sundry amendments which he will now report to the House.' The bill is then before them as it would have been if reported from a committee, and the questions are regularly to be put again on every amendment; which being gone through, the President pauses to give time to

the House to propose amendments to the body of the bill, and, when through, puts the question whether it shall be read a third time" (Manual, Section XXX).

"In the House of Representatives procedure 'in the House as in Committee of the Whole' is by unanimous consent only, as the order of business gives no place for a motion that business be considered in this manner. In the House an order for this procedure means merely that the bill will be read for amendment and debate under the five-minute rule, without general debate (Speaker Clark, May 26, 1911). The Speaker remains in the chair, and when the bill has been gone through he makes no report, but puts the question on the engrossment and third reading and on the passage" (Digest of the United States House of Representatives).

Jefferson continues:

"How far does this XXVIIIth rule [of the Senate] subject the House, when in quasi-committee, to the laws which regulate the proceedings of Committees of the Whole? The particulars in which these differ from the proceedings in the House are the following: 1. In a committee every member may speak as often as he pleases. 2. The votes of a committee may be rejected or altered when reported to the House. 3. A committee, even of the whole, cannot refer any matter to another committee. 4. In a committee no previous question can be taken; the only means to avoid an improper discussion is to move that the committee rise; and if it be apprehended that the same discussion will be attempted on returning into committee, the House can discharge them, and proceed itself on the business, keeping down the improper discussion by the previous question. 5. A committee cannot punish a breach of order in the House or in the gallery. It can only rise and report to the House, who may proceed to punish.

"The first and second of these peculiarities attach to the quasi-committee of the Senate, as every day's practice proves, and it seems to be the only ones to which the

XXVIIIth rule meant to subject them; for it continues to be a House, and therefore, though it acts in some respects as a committee, in others it preserves its character as a House. Thus (3) it is in the daily habit of referring its business to a special committee. 4. It admits of the previous question. If it did not, it would have no means of preventing an improper discussion; not being able, as a committee is, to avoid it by returning into the House, for the moment it would resume the same subject there, the XXVIIIth rule declares it again a quasi-committee. 5. It would doubtless exercise its powers as a House on any breach of order. 6. It takes a question by yea and nay, as the House does. 7. It receives messages from the President and the other House. 8. In the midst of a debate it receives a motion to adjourn, and adjourns as a House, not as a committee" (Manual, Section XXX).

In other words, it is the House acting as though it were a committee, but never abandoning the powers of the House, and changing from House to committee and committee to House at pleasure, but without delay and without all the forms of a committee meeting separately.

Acting informally as in Committee of the Whole is sometimes phrased differently, and a method of action which has become customary in some assemblies is that which is called **Informal Consideration of a Question.** Instead of going into Committee of the Whole, the body first considers the question *informally*, and afterward *formally*.

While acting informally a member can speak as many times as he pleases, and as long as permitted in the assembly. The presiding officer retains his seat. It is not necessary to move to rise. The only motions that can be made when acting upon resolutions are to *amend* and to *adopt*. The adoption of any other motion puts an end to the informal consideration.

When consideration has ended, the chairman, without further motion, announces that "the assembly, acting informally (or as in Committee of the Whole) has had such

a subject under consideration and has made certain amendments, which he will report." Then the subject comes before the assembly as if reported by a committee.

The clerk keeps a memorandum for temporary use, but only enters the chairman's report upon the minutes.

CHAPTER IV

COMMISSIONS

A **Commission** is of the nature of a committee, and yet there is some difference, so that it has come to have a meaning of its own. A commission has been defined as "A body of persons intrusted jointly with the performance of certain special duties, usually of a public or legal character, either permanently or temporarily." A commission, like a committee, has something committed to it, but it is usually something outside or beyond the routine duties of an ordinary committee. Sometimes it is delegated to execute some specific order. It may be commissioned and empowered with a mandate of authority, for example, to summon witnesses or to issue legal commands. It may be commissioned as an agent of the house, or an executive body, to carry out some distinctively defined purpose; or to gather information along some particular line or in regard to some specified matter and to formulate recommendations drawn from the investigations. Such a commission may be empowered to sit at any time and even beyond the session of the house. "Committees may be appointed to sit during a recess by adjournment, but not by prorogation. Neither House can continue any portion of itself in any parliamentary function beyond the end of the session without the consent of the other two branches. When done, it is by a bill constituting them commissioners for the particular purpose" (Jefferson: Manual, Section LI).

"The House of Representatives may empower a committee to sit during a recess which is within the constitutional term of the House, but not thereafter. Therefore

committees are created commissioners by law if their functions are to extend beyond the term of the Congress" (Digest of the United States House of Representatives).

The commission is to make report to the body that created it or to its legitimate successor.

PART VII

SPECIAL METHODS

CHAPTER I. Progressive Action on Bills

CHAPTER II. Proceedings in Bicameral Bodies

CHAPTER I

PROGRESSIVE ACTION ON BILLS

Some bodies take only one vote upon a proposition, but other parliamentary bodies, with more time at their disposal, take **several actions** upon a measure before it is finally adopted.

Thus there is a **first reading** and a **second reading.** Then there may be the **committee** stage where the measure may go into the Committee of the Whole or to another committee. Then there is the engrossing and the **third reading,** after which comes the final passage.

Under this progressive method the measure is presented and read the first time, that it may be formally before the body, and that the house may hear it in full.

On first reading, the clerk or secretary reads it in full, and then the presiding officer states it by title.

Jefferson says: "When a bill is first presented, the clerk reads it at the table, and hands it to the Speaker, who, rising, states to the House the title of the bill; that this is the first time of reading it; and the question will be whether it shall be read a second time, then sitting down to give an opening for objections. If none be made, he rises again, and puts the question whether it shall be read a second time. A bill cannot be amended the first reading, nor is it usual for it to be opposed then, but it may be done, and rejected" (Manual, Section XX).

There must be an interval between the period of the first reading and the time for the second reading of the measure. This allows time for private inquiry and thought.

As to the second reading Jefferson says: "The second reading must regularly be on another day. It is done by the clerk at the table, who then hands it to the Speaker.

The Speaker, rising, states to the House the title of the bill; that this is the second time of reading it; and that the question will be whether it shall be committed or engrossed and read a third time. But if the bill came from the other House, as it always comes engrossed, he states that the question will be whether it shall be read a third time, and before he has so reported the state of the bill no one is to speak to it.

"In the Senate of the United States the President reports the title of the bill; that this is the second time of reading it; that it is now to be considered as in Committee of the Whole; and the question will be whether it shall be read a third time, or that it may be referred to a special committee" (Manual, Section XXV).

Jefferson observes that "If on motion and question it be decided that the bill shall be committed, it may then be moved to be referred to Committee of the Whole House, or to a special committee. If the latter, the Speaker proceeds to name the committee. Any member also may name a single person, and the clerk is to write him down as of the committee. But the House have a controlling power over the names and number, if a question be moved against anyone, and may in any case put in and put out whom they please" (Manual, Section XXVI).

Jefferson states that "In Parliament, after the bill has been read a second time, if on the motion and question it be not committed, or if no proposition for commitment be made, the Speaker reads it by paragraphs, pausing between each, but putting no question but on amendments proposed; but when through the whole, he puts the question whether it shall be read a third time, if it come from the other house, or, if originating with themselves, whether it shall be engrossed and read a third time. The Speaker reads sitting, but rises to put questions. The clerk stands while he reads" (Manual, Section XXXI).

Jefferson continues: "But the Senate of the United States is so much in the habit of making many and

material amendments at the third reading that it has become the practice not to engross a bill till it has passed —an irregular and dangerous practice, because in this way the paper which passes the Senate is not that which goes to the other House, and that which goes to the other House as the act of the Senate has never been seen in the Senate. In reducing numerous, difficult, and illegible amendments into the text the secretary may, with the most innocent intentions, commit errors which can never again be corrected."

In the House of Representatives it is not the Speaker or chairman of the Committee of the Whole, but the clerk, who reads bills on second reading. After the second reading, which is in full, the bill is open to amendment (Digest of the United States House of Representatives, p. 171).

After the second reading, "The bill being now as perfect as its friends can make it, this is the proper stage for those fundamentally opposed to make their first attack. All attempts at earlier periods are with disjointed efforts, because many who do not expect to be in favor of the bill ultimately are willing to let it go on to its perfect state, to take time to examine it themselves, and to hear what can be said for it, knowing that, after all, they will have sufficient opportunities of giving it their veto. Its two last stages, therefore, are reserved for this, that is to say, on the question whether it shall be engrossed and read a third time, and, lastly, whether it shall pass" (Jefferson: Manual, Section XXXI).

Then after another interval the bill is brought up for a third reading and then for the final disposition.

Jefferson again says:

"To prevent bills from being passed by surprise, the House, by a standing order, directs that they shall not be put on their passage before a fixed hour, naming one at which the House is commonly full.

"A bill reported and passed to the third reading cannot on that day be read the third time and passed; because this would be to pass on two readings in the same day.

"At the third reading the clerk reads the bill and delivers it to the Speaker, who states the title, that is the third reading of the bill, and that the question will be whether it shall pass" (Manual, Section XL).

The rule in the United States House of Representatives is as follows: "1. Bills and joint resolutions on their passage shall be read the first time by title and the second time in full, when, if the previous question be ordered, the Speaker shall state the question to be, Shall the bill be engrossed and read a third time? And if decided in the affirmative, it shall be read the third time by title, unless the reading in full is demanded by a member, and the question shall then be put upon its passage" (House Rule, XXI).

Luther S. Cushing, in his large work on The Law and Practice of Legislative Assemblies in the United States of America, says:

"The first reading was for information merely, as to the nature of the provisions, which thus claimed the attention of the House. If the bill as a whole was favorably received, it was ordered to be read a second time. After the second reading, it was debated both as to matter and form. If the matter was approved of, but the form was unsatisfactory, the bill was referred to certain members selected for the purpose by whom the bill was carefully revised, and who suggested to the house such alterations as they deemed necessary. This proceeding was denominated the commitment. The house then went through the bill for the purpose of amending it, according to the suggestions of the committee, and in such other mode as they may think proper.

"When all the alterations had thus been made in the bill, which were necessary to put it into proper form, it was then ordered to be engrossed. . . . When engrossed, the bill was then read a third time, for the obvious purpose of enabling the house to judge, first, whether it was in the form in which it had been agreed upon, and, secondly, whether in that form it expressed the deliberate

sense or will of the house. It might still be amended, if necessary, provided the amendments were such as could be conveniently effected in the bill in its engrossed form, without requiring it to be reengrossed. The final question was then put upon its passage."

Under the old form "When the debate is ended, the Speaker, holding the bill in his hand, puts the question for its passage, by saying, 'Gentlemen, all you who are of opinion that this bill should pass say aye;' and after the answer of the ayes, 'All those of the contrary opinion say no' " (Jefferson, Manual, Section XL).

"In the House of Representatives the bill is usually in the hands of the clerk. The Speaker states that 'The question is on the passage of the bill,' and puts the question in the form prescribed by Rule I, § 5," which is " 'As many as are in favor (as the question may be), say Aye;' and after the affirmative voice is expressed, 'As many as are opposed, say No' " (House Digest, pp. 209, 272).

The matter of **engrossing bills** requires a few words. To engross is primarily to make large or to write large, from *in*, and a Latin form *grossus*, thick or large. To engross, therefore, is: "To write out in a fair large hand or in a formal or prescribed manner for preservation, as a public document or record," and the engrossment is: "The act of copying out in large fair or ornamental characters. The copy of an instrument or writing made in large fair characters." Luther S. Cushing, in the work just quoted, says: "It (the bill) was then ordered to be engrossed, 'which is no more than to transcribe the bill fairly out of the paper in which it was written, into parchment' (D'Ewes). The purpose of this proceeding was merely to make a clean copy of the bill with the amendments in their places, on a permanent and substantial material."

The great **advantage of** having the **three readings,** with intervals between, is that it gives time for reflection and is calculated to prevent precipitate action.

In addition the opportunity for discussion, deliberation,

CHAPTER II

PROCEEDINGS IN BICAMERAL BODIES

Some parliamentary bodies consist of a single house, but many, especially in the most highly developed legislative bodies, consist of two houses, an upper and a lower, or of two chambers, and, so, are **Bicameral bodies.**

In the British Parliament there are the House of Lords and the House of Commons. The United States Congress consists of the Senate and the House of Representatives. In various legislatures there is a Senate and there is an Assembly, the Senate being the upper house and the Assembly being the lower. In the Protestant Episcopal General Convention there are in the same way two bodies, namely, the House of Bishops and the House of Clerical and Lay Deputies.

In a double assembly business may originate in either branch, but a bill passed by one house must go to the other and must be acted upon by the second house before it becomes a law or is rejected. If the second house agrees to the measure in the form in which it was passed by the house which first considered it, it becomes the action of the joint body and is ready for the official signature and whatever else may be necessary to make the bill a law, or the measure a legal enactment.

If, on the other hand, the second branch votes it down, the measure fails, because it requires the concurrence of both houses to make it a legal action. If, however, the second house amends the measure, then it must be sent back to the house where it originated for further consideration, and, particularly, as to whether that house will agree to the changes made in its bill by the other branch of the legislature.

The amended bill having been returned to the branch where the measure originated, the question before that house would be would it concur in the change or changes made by the other house. Agreement or disagreement with the changes would be the subject for consideration. A proper motion would be to **concur,** or, under some circumstances the motion to **non-concur,** the one being the reverse of the other. It may be demanded that the motion to *concur* be put first.

If the house wherein the bill originated concurs with the changes made by the other house, then, both houses having agreed to the same thing, in due process it becomes a law, or an enactment of the legislature as a whole.

If the originating branch refuses to concur, then there is a condition of disagreement between the two houses, and, as long as that continues, the measure is not a legal enactment.

When there is such a disagreement on a measure the house which has the papers, in other words, the one that has *refused to concur*, may by a message ask the other house for a **Conference.** This being granted, each house selects its committee or conferees from its own number to present its views on the matter in question, and when these two committees come together they form practically a committee of conference, though each is independent of the other. If the committee from each house numbers three, the usual course is two from the majority side and one from the minority.

These Conference committees seek to acquaint each other with the reasons that have governed their respective houses in the matter over which they differ, and endeavor to reach an agreement by an abandonment of some feature or by some form of compromise. A **free Conference** is where the conferees are not restricted to the reasons held by their house, but are free to present their own personal views, and this is the kind of conference used by American parliamentary bodies. The Conference committee can sit while both houses are in session,

but at the Conference none but the conferees are entitled to be present.

The **report** to be valid must be agreed to by a majority of the conferees from each house. It must be in writing and have the signatures of the above majority, and there must accompany the report a detailed statement informing the house what effect the proposed amendments or other propositions will have upon the measures to which they relate. The report should be made to and acted upon first by the house which had been invited to the conference, and then by the other house. A conference report takes *precedence* over all other business and "is privileged, even against a motion to adjourn, and may be made at any time except while the journal is being read, the roll called, or the house dividing," in the United States House of Representatives. This privilege exists because there is involved an agreement between the two houses, and, as it is joint business, courtesy between them requires this precedence to facilitate final action.

If an **agreement** has been reached in conference, and both houses agree to the report, no further conference is needed, for, having passed in the reported form in both houses, the measure is legally adopted. On the other hand, if not agreed to by either house, the measure is lost, unless the question is renewed by a further conference, or by one house receding from its position and concurring with the other.

The report of a conference committee **cannot be amended** in either house, but must be accepted or rejected just as it comes from the conference. If the conferees agree on some things and disagree upon others, the two branches may ratify the agreements and enter upon another conference as to the rest.

The **proper motions** in reference ro conference reports are the following: To *concur*, to *non-concur*, to *recede*, to *insist*, and to *adhere*, and they have priority in that order. The motion to *recede* is used when the house having previously non-concurred, upon the matter coming

up again, desires to recede from its former position. When the house has non-concurred in an amendment and determines to stand by that action the proper motion is to *insist.* When one house wishes the other branch to understand that it will not change its decision, the proper motion is to *adhere.*

"After both houses have adopted the motion to adhere, the bill is lost. Nevertheless, if one house asks a committee of conference, even after the other house has voted to adhere, it is usual to grant the request" (Reed's Rules, p. 189).

These methods where a legislative body consists of two houses tend to prevent hasty action and ensure safe decisions, and the two houses themselves act as checks upon each other in preventing hasty legislation, as they compel double consideration and give time for reflection, and so they are safer than a single impulsive body.

PART VIII

MEETINGS, LAWS, AND BUSINESS

CHAPTER I. Meetings and Sessions

CHAPTER II. Charters, Constitutions, By-Laws, and Rules

CHAPTER III. Order of Business

CHAPTER I

MEETINGS AND SESSIONS

The word **"meeting"** clearly expresses the idea of coming together, the primary idea of a parliamentary body. The members literally meet.

"Session" is a more comprehensive term, and comes from the Latin *sessio*, from *sedere, sessum*, "to sit." A session of a Legislature is the period during which it sits. Thus "a session of Parliament comprises the time from its meeting to its prorogation, of which there is in general but one in each year." Hence a session may include many meetings. The session is supposed to cover all the time necessary for a deliberative body to finish its business or to complete its term, as is the case with a session of Congress, or of an ecclesiastical assembly, while a meeting covers only the time from a convening to an adjournment.

In a body which meets at regular and stated intervals, as weekly, monthly, or yearly, and completes its business upon once assembling, that one meeting is the session, and, in this case, "meeting" and "session" would mean the same. If the body, however, in order to finish its business, adjourns from time to time in the same day or near future, as with religious conferences, the adjournment would end a meeting, but not the session, and the session would cover all the meetings up to the final adjournment.

Meetings are of different kinds. For example, they are *regular* or stated, *special*, and *adjourned* meetings, and of adjourned meetings, there may be adjourned regular meetings and adjourned special meetings.

Regular meetings are fixed by the superior law, or by

the rules of the body. Frequently they are called stated meetings.

An *adjourned* meeting has all the powers of the original meeting which was adjourned, and is a continuation of the same as though there had been no adjournment.

Special meetings are called at other times to transact special business. The president, or a few members, as provided in the rules of the society, may call a special meeting.

Special meetings are specially called by those empowered to issue a call in the interim of regular meetings, and due notice must be given each and every member of the time and place of the meeting, and in the notice the exact business of the special meeting should be distinctly announced. The business of the special meeting is limited to the specific matters mentioned in the call for the said meeting. The special meeting is not for general business, such as belongs to the regular meeting, but for something specifically stated, and, therefore, it is not proper to say in the call, "and for the transaction of any other business which may be presented." That is the work of a regular meeting, and to attempt it in a special meeting would be in the nature of a surprise, and would give an opportunity to take advantage of the absence of those who thought only the specified matters would be considered and that the regular business would come up at the regular meeting. Only what is distinctly stated in the call can be considered at a special meeting. If it is desired to take up work that belongs to the regular meeting that can be done in an adjourned regular meeting.

The minutes should always state the nature of the meeting, whether stated or special, as well as the matters under consideration, and the entry for the special meeting should contain a copy of the call.

It is particularly important that every member should have fair and full notice of special meetings, because they occur irregularly, and, unlike the regular meetings, cannot be indicated in the permanent rules of the body. If it

appeared that a member was not duly notified of the time and place for a special meeting, a question might be raised as to the validity of the acts of such a meeting, and it might be alleged that the omission was designed, and that the meeting was not legally constituted.

CHAPTER II

CHARTERS, CONSTITUTIONS, BY-LAWS, AND RULES

THERE are various documents or codes governing deliberative bodies, containing formulations of rights and restrictions. Thus there is what is called a **Charter,** from the Latin *chartula*, "a little paper" or "writing," and in modern times applied to government grants of powers or privileges, for example, to a corporation or an association. A charter comes from a higher authority, creates and gives a legal standing to the organization, and empowers and limits the body thus recognized. The body owing its existence to a legal charter is under obligation to act in conformity with the terms of the instrument. The body thus chartered cannot modify its charter, but it may petition the superior authority to make a change therein or to give it a new charter.

A **Constitution** is that which constitutes or establishes. Specifically it has been defined as "A system of fundamental principles, maxims, laws, or rules embodied in written documents or established by prescriptive usage, for the government of a nation, state, society, corporation, or association" (Century Dictionary). A constitution does not come precisely as does the ordinary charter, but may be formulated by the component parts of the body which it is to control. It is sometimes spoken of as the organic law because it is the primary or basal law that organizes the body. In the same sense a charter is organic law.

A constitution is not only an organizing and empowering document, but also a limiting instrument with restrictions on the body it constitutes. It becomes the fundamental law by which the body is restrained, which must be obeyed by the body in its actions and by each indi-

vidual in the body. To it the body is to look for permission and mandate, and its limitations are not to be transgressed.

Because of its nature, a constitution should not be lumbered up with minor matters, but should be a brief document, simple in its statements, and containing essential principles. It should specify the fundamental objects of the organization, indicate its composition, define its powers and limitations, ordain the time and place for its meetings, and restrict its expressions to things fundamentally necessary.

Because it is fundamental it should be unchangeable on a momentary impulse, and should be exceedingly difficult to change at any time. Usually, constitutions contain a provision for change or amendment, which specifies that there must be formal notice of the proposition to amend, and that a considerable time must intervene before action can be taken on the proposed modification. That means due notification and time for reflection. While not impossible to change, constitutions must have some degree of permanence.

The **By-Laws** are detailed regulations for working out the objects of the body and the purposes of the constitution.

The common definition regards the title as a compound of two words, "by" and "law," meaning by, or according to the law; that is to say, the fundamental law, which in this instance would be the constitution. Modern scholars, however, tell us that it is the Danish *by*, meaning a town, and that it primarily means a town law, or local law. But admitting this, it is plain that the town law had to be in harmony with the higher law, and so by-laws must be in accordance with the fundamental or organic law, that is with the constitution, and with the charter, if there be one. In that sense they are by, or according to, the law.

The by-laws should contain important regulations which could not be changed on the moment and which should be put out of the power of any one meeting to change. Not

being quite as important as the fundamental law, they may be more easily changed than the constitution, but the by-laws must contain a specific provision for their amendment at a future time after due notice has been given. This should be at a regular meeting and should require a two-thirds vote, and at least the same should be required to amend the constitution. A provision of the constitution cannot be suspended at any time or by any vote.

Rules of Order are the special parliamentary rules adopted to meet the peculiar needs of the body, and may for that body modify the application of general parliamentary practice to some extent, but there should be no variation from common parliamentary law unless the nature of the body makes it absolutely necessary. Deliberative bodies frequently adopt a few special rules, and in addition recognize some parliamentary textbook as a guide.

A body may also have its **Standing Rules,** which are resolutions of a more or less permanent nature, adopted from time to time, and which are binding until they are modified or rescinded.

In addition, there may be **Special Orders** adopted to accomplish some particular thing within the legal rights of the assembly. Robert holds that if the special order is to fix an order "in preference to the orders of the day and established order of business," then the "motion requires a two-thirds vote for its adoption, because it is really a suspension of the rules" (Rules, p. 187).

In a representative body, which is not continuous, but which terminates its existence at a given time, and will be followed by another body with newly elected representatives, the one house, though similar, cannot make rules or orders to govern the succeeding house or to interfere with its constitutional rights, but the succeeding body may profit by, and follow, precedents established by the former assembly. On the other hand, if it is a continuous body, the rules continue until they are legally changed by specific action.

CHAPTER III

ORDER OF BUSINESS

THERE must be a definitely understood progression in the items of business that all may know what to expect at a particular time, and that the items should have a fair chance among themselves, and not be overlooked. This arrangement, which is called the **Order of Business,** is fixed by the body itself to suit the character of the assembly.

Some points belong to general parliamentary practice, and, so to speak, would be naturally respected even if there was no formally adopted order of business. Thus, the members being assembled, the first, and natural, thing would be for the presiding officer, at the proper time for beginning, to take the chair and call upon the house to be in order.

The next thing, in ordinary bodies particularly, is to have the roll called, to see who and how many were present.

Attention having been secured, and those present having been noted, the next thing, in every meeting after the first, would be to ascertain whether an accurate record of the proceedings of the previous meeting has been made, for it may not only be a record, but also a basis for the business of the day. So the natural thing after calling the house to order and the calling of the roll is the reading and approval of the minutes, or journal, of the previous meeting.

Having approved, or adopted the minutes, the natural course, before taking up anything else, would be the completion of business which had been considered previously, but upon which a conclusion had not been reached. So we would have the consideration of unfinished business.

The incomplete business having been completed, or at least having been considered and disposed of in some way, the next thing in natural order would be the presentation of new business, under which head new propositions of various kinds and forms could be presented, considered, and acted upon.

Finally, the business having been attended to, or the time having expired, or the strength or patience of the body having been exhausted, the natural and necessary thing would be to close the present meeting, and, so, the last item would be the adjournment of the assembly.

Grouping these points, as forming the primary or natural order of business, under general parliamentary practice, we would have the following

ORDER OF BUSINESS

1. Calling the House to Order.
2. Calling the Roll.
3. Reading and Approval of the Journal.
4. Unfinished Business.
5. New Business.
6. Adjournment.

That, so to speak, is the germ-order of business, and under such a simple order it is possible to include practically everything that is necessary, but each body may make detailed insertions of various subordinate or other items to meet its own needs or convenience.

Thus, a religious gathering would have devotional services immediately after the call to order. Another might have a particular place for the presentation of communications, or of matters for temporary disposition. So there might be a special place for the reception of reports, and this might be subdivided for different kinds of reports; and, again, there might be a place specially indicated for the consideration of matters of peculiar moment as ordered by the assembly itself.

Where the business is very great and greatly varied it is found useful to keep one or more *Calendars* in which the

propositions, reports, or other forms of business are listed, that the clerk may have the items arranged so that they will naturally take their turn and come up in their order. "Calendar" is from *calendarium*, or *kalendarium*, "an account book," and the parliamentary calendar is the account book of the items of business, or the lists kept by the clerk. In the United States House of Representatives there are three different calendars.

Every parliament may, and should, have its own order of business. Where no rule has been adopted, the condensed form already suggested may be used, or the order may be enlarged as follows:

1. Calling the House to Order.
2. Religious Service.
3. Calling of the Roll.
4. Reading and Approval of the Minutes.
5. Reception of Communications.
6. Reception of Reports—
    (1) from Standing Committees.
    (2) from Special or Select Committees.
    (*a*) for reference to calendars.
    (*b*) for immediate action.
7. Unfinished Business.
8. New Business.
9. Miscellaneous Business.
10. Adjournment.

Speaker Reed suggests the following:

"Calling to Order.
"Approval of the Journal.
"Introduction of Business for Reference.
"Reports of Committees for Reference to Calendars.
"Unfinished Business.
"Reports of Committees for Action.
"Action on Reports Already Made.
"Other Business.
"Adjournment."—(Reed's Rules, p. 196.)

Again, the regular order of business may be modified from time to time by an order of the house that at a

certain time a particular matter shall be considered, and that mandate inserts that particular thing at the certain time or special place for the time being in the regular order.

But that is only a temporary displacement of the order, and, when it has been disposed of, the regular order resumes its place and is to be followed.

By **Unfinished Business** is meant business which has been under consideration, but which, at the last adjournment, had not been disposed of. **New Business** covers any new matter that a member may introduce.

Questions as to **priority of business** are to be decided without debate.

PART IX

RIGHTS, DUTIES, AND POWERS

CHAPTER I. Rights and Duties of Members

CHAPTER II. Powers of a Parliamentary Body

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CHAPTER I

RIGHTS AND DUTIES OF MEMBERS

First, the **duties of members** should be considered. The first duties are attendance, punctuality in attendance, and orderliness. The member's presence is demanded, he should be prompt in attendance and in the discharge of his various responsibilities which pertain to his membership, and as a member he should always be orderly.

In this country it is disorderly for the member to wear his hat in the room where the body meets. His head should be uncovered when he enters and while he remains in the room. His feet are to be kept on the floor, he is not to smoke when in the hall, he is not to pass between the presiding officer and a member who is speaking, and he is not to walk about or engage in other business while the body is in session. He is to be decorous in his conduct at all times. He is not to disturb others or to distract the attention of the house. He is to give respectful attention to the presiding officer, the business of the body, and to the member speaking from the floor. He is to be courteous, to observe the proprieties, and to promote harmony by avoiding altercations of every kind. He is not to obstruct others in the enjoyment of their rights or to come in conflict with other members who are seeking or struggling for their legitimate rights. In other words, the member is to observe the Golden Rule.

The member should both know and obey the rules and exercise mutual consideration and forbearance. When one is speaking he should not interrupt except by the consent of the one having the floor, and for something urgent. While another is speaking he should not make outcries or ejaculations from his seat or from any other place in the house. While debating, he should avoid improper expres-

sions, such as personalities, revilings, or unmannerly words. He should not arraign the motives of a member, but he should observe the utmost decorum in debate both in language and in manner.

Second, as to the **rights of members.** The member has a right to be present and to participate in the business. He has equal rights with all other members, for each and all have an absolute equality under the law. He has a right to introduce business and a right to present a proposition for action, and when he does so he has a right to expect consideration and fair treatment. He has a right to speak for or against measures when they are before the house, and to debate the questions at such length as he desires and the law permits. He has a right to vote upon the questions that are submitted. He has a right to inspect the journals, and even to publish votes therefrom. He has a right to insist on the execution of a subsisting order of the assembly. He has a right to assist in maintaining order in the house. He has a right to demand that each member and the meeting be in order, which he may do by calling the attention of the Chair to individual disorder or disorder on the part of the house, and he may make the point that the member on the floor is not speaking to the question. He may demand equitable treatment from the Chair and from every member, and particularly is he entitled to recognition by the presiding officer, when, at the proper time, he being first up, he properly addresses the Chair. In addition, he has a claim on all the privileges belonging to membership.

CHAPTER II

POWERS OF A PARLIAMENTARY BODY

A PARLIAMENTARY body, like the individual member, has duties, rights, and powers. Some deliberative bodies have been practically unrestricted in their powers, like a revolutionary body in times of anarchy. Some have been limited by their charter from a higher authority, or by a constitution drawn up by their creators. Some have been self-limited.

However such bodies may vary, every body has a degree of authority over its individuals. This power is necessary to preserve order and to protect its own life. Without this power the meeting might be thrown into a chaotic condition.

The duty of suppressing disorder is primarily with the presiding officer, but each member has a responsibility, and the ultimate responsibility and authority is with the body as a whole. The Chair can call to order, the member can call attention to disorder, and the house as an entirety can determine the extreme penalty for disorderly conduct.

Beyond the matter of mere disorder, the body may inquire into the moral character and special moral conduct of its members. As General Robert says: "Every deliberative assembly, having the right to purify its own body, must therefore have the right to investigate the character of its members" (Rules, p. 201), but the severest penalty the ordinary deliberative body can inflict is expulsion.

It has been held that the United States House of Representatives could punish a disorderly member even more severely than by expulsion.

When the presiding officer calls on a disorderly member to be in order the business then before the house is suspended until order is restored. If the member persists, he

is specifically called to order, and, if he continues, then the house, on motion of a member, decides what shall be done. Speaker Reed says: "The punishment which can be inflicted depends upon the character of the assembly, and is in legal assemblies usually limited by law. In voluntary assemblies it may be censure, reprimand, or a demand for apology on pain of expulsion. It almost always happens, when attention is called to the unsuitable nature of the words used by the member, or the acts performed by him, that he makes such an explanation or retraction as enables the assembly to excuse him and go on with its business" (Reed's Rules, p. 168). General Robert says: "A deliberative assembly has the inherent right to make and enforce its own laws and punish an offender, the extreme penalty, however, being expulsion from its own body" (Rules, p. 198). But the body must be careful as to how it announces the result. "When [the member is] expelled, if the assembly is a permanent society, it has a right for its own protection, to give public notice that the person has ceased to be a member of that Society" (Robert's Rules, p. 198). If it goes beyond that it incurs a great risk, and there is a case where charges having been published, a suit for libel was instituted and damages were recovered by the party concerned.

There is a punishment called "naming" a member who, notwithstanding the repeated calls of the Chair, persists in his irregularity or impropriety. When thus called by his name by the Chair, "The house may require the disorderly member to withdraw. He is then to be heard in exculpation, and to withdraw. Then the Speaker states the offense committed, and the house considers the degree of punishment they will inflict" (Jefferson's Manual, Section XVII).

As to disorderly words, Jefferson says: "Disorderly words are not to be noticed till the member has finished his speech. Then the person objecting to them, and desiring them to be taken down by the clerk at the table, must repeat them. The Speaker then may direct the

clerk to take them down in his minutes; but if he thinks them not disorderly, he delays the direction. If the call becomes pretty general, he orders the clerk to take them down, as stated by the objecting member. They are then part of his minutes, and when read to the offending member, he may deny they were his words, and the House must then decide by a question whether they are his words or not. Then the member may justify them, or explain the sense in which he used them, or apologize. If the House is satisfied, no further proceeding is necessary. But if two members still insist to take the sense of the House, the member must withdraw before that question is stated, and then the sense of the House is to be taken. When any member has spoken, or other business intervened, after offensive spoken, they cannot be taken notice of for censure. And this is for the common security of all, and to prevent mistakes which must happen if words are not taken down immediately. Formerly they might be taken down at any time the same day" (Manual, Section XVII).

The United States House of Representatives has modified this and requires the disorderly words to be noticed as soon as uttered, but does not require the offending member to withdraw while the House is deciding upon its course of action.

The House rule is: "If any member, in speaking or otherwise, transgress the rules of the House, the Speaker shall, or any member may, call him to order; in which case he shall immediately sit down, unless permitted on motion of another member, to explain, and the House shall, if appealed to, decide on the case without debate; if the decision is in favor of the member called to order, he shall be at liberty to proceed, but not otherwise; and, if the case require it, he shall be liable to censure or such punishment as the House may deem proper.

"If a member is called to order for words spoken in debate, the member calling him to order shall indicate the words excepted to and they shall be taken down in writing

at the clerk's desk and read aloud to the House; but he shall not be held to answer, nor be subject to the censure of the House therefor, if further debate or other business has intervened" (Rule XIV).

In certain very extreme cases, as, for example, when the words were alleged to be treasonable, or a breach of privilege, "the House has proceeded to censure, or other action, although business may have intervened" (Digest of the United States House of Representatives).

PART X

ECCLESIASTICAL BODIES

Chapter I. Parliamentary Practice in Ecclesiastical Bodies

CHAPTER I

PARLIAMENTARY PRACTICE IN ECCLESIASTICAL BODIES

Ecclesiastical bodies of a Legislative or deliberative character are *subject to parliamentary law* just as are secular bodies. The gathering may be called a Conference, a Convention, an Assembly, a Synod, a Presbytery, or it may bear some other title, but being deliberative or legislative, its proceedings must have respect to sound and generally accepted parliamentary practice.

In minor particulars any body may make special rules to meet peculiar conditions in its organization, circumstances, and work, but even they should have regard for general parliamentary principles, and, especially, should a religious body adhere to the principles of common parliamentary usage, for it is important that the principles of general parliamentary practice shall be as nearly universal as possible in order to avoid confusion and misunderstandings.

Certain principles are as fixed as the common law of the land, and while religious bodies may have long-standing usages and precedents growing out of their own peculiarities, nevertheless the civil courts might expect in certain things conformity to common parliamentary law and might inquire, not only as to the act done, but also as to how it had been done and, particularly, as to whether proper parliamentary forms had been observed.

In a religious body parliamentary law is just as much *needed* as in other organizations. Indeed, there is perhaps greater need that in the ecclesiastical gathering all things shall be done "decently and in order."

Human nature is human nature no matter where it may

be found, and even in the church meeting there is a tendency for it to assert itself, and, sometimes, in an unseemly manner. In the ecclesiastical convocation there are persons with differing views, just as people in other meetings may vary in their views. The fact that one organization has a religious object while the other has a secular motive makes no difference whatever; or perhaps we should say that parliamentary restraints are more necessary in the religious gathering in order that there shall not be unseemly wrangles which are possible, or probable, in moments of excitement, and where some persons do not know the points and proprieties of parliamentary procedure.

The Rev. William E. Barton, D.D., has well said:

"Every Christian minister has occasion to preside at meetings that require an intimate knowledge of parliamentary law; and nearly all ministers have part in representative assemblies where they have occasion to meet other men in the arena of discussion. For them, above most men, it is important that they know the principles of parliamentary law, and those special obligations and precedents which are peculiar to religious assemblies.

"What is said of ministers is true in hardly a less degree of church officers and delegates.

"The application to religious assemblies of the principles of parliamentary law means, not that mere technical routine should dominate with rigorous hand the assemblies of Christian people, but that within all gatherings that represent the church, men should know their own obligations and the rights common to themselves and their brethren, that so the spirit of truth may express the will of God through the united judgment of the church. We are many members, yet with one body. Parliamentary law is the application of the Golden Rule and the principles of order and fair play within the Church of Christ. Justice, courtesy, order, precision—these are the principles for which parliamentary law stands, and every church and every gathering under the auspices of the

church should seek to embody these principles" (Rules of Order for Religious Assemblies, p. 117).

With the kindness of Christian courtesy pervading a religious assembly, parliamentary law is the sure protection of the rights of each individual participant, is preservative of order, and promotes dignity and dispatch in business. Parliamentary law is the spirit of the Golden Rule logically applied to deliberative bodies, and in no place is it more fitting than in an ecclesiastical assembly.

In a local church meeting it is proper that the *pastor* preside, unless the law provided otherwise. In the superior church meetings the law of the denomination usually determines who should preside, and ordinarily it is one from the ranks of the clergy, but, where there is no specific provision in the law, naturally the body itself can decide who shall be the presiding officer.

It is just as important that the *journal* of a religious assembly shall be accurately kept as it is in any other kind of a deliberative gathering, and it is important, not only that the minutes be properly kept, but that they be kept in the sense of being carefully preserved.

All church meetings are not necessarily public meetings, and the church has a right to hold *private meetings*, to which the public should not be admitted, and from which persons not legally entitled to be present may be excluded. Ordinarily, this must be the case in moral investigations and in trials of any sort. These inquiries are matters for the church itself, and a degree of privacy may be necessary to avoid the spread of scandal and to avoid injury to individuals as well as the church, but with all this prudence, the right of the accused and his counsel to be present and to hear all that is said must be strictly enforced. In such a case the church cannot go beyond the mere *exclusion* or *expulsion* of a member, though it may in a proper way give notice that the person has ceased to be a member. "But it has no right to go beyond what is necessary for self-protection and publish the charges against the member. In a case where a member of the

society was expelled, and an officer of the society published, by their order, a statement of the grave charges upon which he had been found guilty, the expelled member recovered damages from the officer in a suit for libel, the court holding that "the truth of the charges did not affect the case" (H. M. Robert: Rules of Order, p. 199).

A religious body cannot do as it pleases, any more than any other body, simply because it can get a majority of its members to consent to the deed. The body *must conform to the laws* of the land and common equities, and it must conform to its own constitution as well. With each member it enters into a contract so to do, and the member can hold the body to its contract and compel it to treat him according to its own law and the law of the land.

As long as the ecclesiastical body acts according to its own rules, and does not violate the law of the land, the *civil courts* will not interfere with the church or the legal action of a church body. If, however, an individual member considers that the religious body has injured him, and in so doing has acted contrary to its own law and, possibly, in addition, his country's law, the aggrieved member can appeal to the civil courts, and the civil courts could intervene to right the wrong. Thus, if a member was in such an illegal manner expelled from membership, or ejected from a remunerative or honorable position, the civil power could be invoked, and, if the facts were as stated, the courts could order the reinstatement of the member and the righting of the wrong in some manner.

In such a case the body could not successfully plead that it had done such things before with other members. The question would be as to what was the law, for even a so-called "precedent" would not be law when it was contrary to the law, and ignorance of the law would be no defense.

PART XI
MISCELLANEA

Access to Records. Any member has a right to have access to, to inspect, and even to copy from the Journal or Minutes. He is a partner in the concern and has a right to consult its records. The clerk or secretary is the custodian of, and must protect, the Journal and other documents, but he cannot prevent members from examining them. Jefferson says: "Every member has a right to see the Journals, and to take and publish votes from them. Gray, 118, 119" (Manual, Section XLIX).

Expunging. Some doubt has been expressed as to the right of a body to expunge records of transactions from its Journal. Usually bodies insist on the accuracy of their Journals, but "In rare instances the House and Senate [of the United States] have rescinded or expunged entries in Journals of preceding Congresses" (Digest of the United States House of Representatives). In 1834 the Senate of the United States passed a censure on President Jackson, and in 1837 the Senate passed a resolution to expunge this censure, but there was no literal expunging —no pricking out, rubbing out, or blotting out. It still stands in the record with a line drawn around the part and a note to the effect that this had been expunged. It is at least questionable whether a truthful record can be expunged. If a vindication is desired it may be accomplished in some other way.

To Amend Rules, By-Laws, and Constitution should require a two-thirds vote.

Parliamentary Thoroughness comes particularly from observation, practice, and the mastery of underlying principles. There is a reason for everything, and usually, to say the least, the rules of common parliamentary practice are reasonable and based on reason. The true

parliamentarian is not a trickster who is guilty of sharp practice. He is a gentleman who recognizes the rights of all. Common sense is always in order, and order is always common sense. The fair parliamentarian will be sparing in his use of the previous question, particularly in the ordinary deliberative body. This motion has been classed expressively, if not elegantly, under the head of "gag law," because of its power to prevent discussion. The motion to lay on the table, as frequently used, is of the same nature. Though there are times when these motions are of very real service, they should not be used simply as "gag motions." Certainly, it is in very bad taste for one who has spoken on the question to try to "gag" others who desire to speak. So some bodies have a rule prohibiting a member to move the previous question or to move to lay on the table at the close of his speech.

PART XII

CONDENSED AND READY REFERENCE TABLE OF MOTIONS

CONDENSED TABLE OF MOTIONS*

WITH SPECIAL POINTS RELATING TO THEM

Prepared by Rev. Bishop T. B. Neely, D.D., LL.D.

(The figures appended to the motions refer to the figures prefixed to the observations, and indicate that the observation with the corresponding number applies to the motion. The numbers in [ ] refer to the pages in the body of the work, where the subjects are more fully treated. These points are mainly exceptions to the general rules, and unless some peculiarity is indicated, the general rules apply. Thus, unless it is stated that a motion is undebatable, it will be understood that it can be discussed. If one wishes to know what points apply to a particular motion, let him find the motion in the list of questions and then compare the figures with the figures under the observations. Or, if he wishes to know to which questions the observations apply, let him take the figure before the observations and find it where it follows the question. With this table before him, one will be able at a glance to answer a vast number of important questions.)

Observations

1. Can be made when another has the floor.
2. Is in order even after unannounced vote to adjourn.
3. Does not require to be seconded.
4. Undebatable.
5. Undebatable when another question is before the house.
6. Opens the merits of the main question to debate.
7. Opens the main question to debate only so far as is necessarily involved in the amendment.
8. Debatable only as to the propriety of the postponement.
9. Cannot be amended.
10. Can be amended by altering the time.
11. Cannot have any subsidiary motion applied to it.
12. Subsidiary motions applied to it do not affect the question interrupted.
13. Previous question applies to it without affecting other pending motions.
14. Requires a two-thirds vote.
15. Cannot be reconsidered.
16. An affirmative vote on it cannot be reconsidered.
17. Cannot be renewed without intervening business.

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Questions Alphabetically Arranged

Adjourn (unqualified), 4, 9, 11, 15, 17. [112]
Adjourn, To fix the time to which to, 2, 5, 10, 17. [114]
Amend, 7. [78]
Amend an amendment, 7, 9. [80]
Amend the rules, 14. [110, 217]
Appeal (when relating to decorum, etc., or while previous question is pending), 1, 4, 9. [103]
Appeal (all other cases), 1, 9. [103]
Commit, 6. [83]
Debate, Motion to close, 4, 14. [48]
Debate, Motion to extend limits of, 4. [48]
Debate, Motion to limit, 4, 14. [48]
Discussed? Shall the question be, 1, 3, 4, 9, 11, 14.* [102]
Objection to the consideration of a question,† 1, 3, 4, 9, 11, 14.* [102]
Order, Call to, 1, 3, 4, 9. [103, 104, 205]
Orders of the day, Motion for, 1, 3, 4, 9. [116]
Order, To make a special, 14. [117, 196]
Order, To take up a question out of its proper, 4, 9, 14. [118]
Postpone to a certain time, 8, 13. [85]
Postpone indefinitely, 6, 9, 13. [86]
Previous question, 4, 9, 11, 14. [87]
Priority of business, Questions relating to, 4. [200]
Privilege, Questions of, 1,‡ 12. [118]
Reading papers, 4, 9. [106]
Reconsider a debatable question, 1,§ 6, 9, 13, 15. [128]
Reconsider an undebatable question, 1,§ 4, 9, 13, 15. [128]
Reconsider a question that has been reconsidered, 15. [128]
Recommit (same as commit), 6. [83]
Refer (same as commit), 6. [83]
Rise (in committee, same as adjourn), 4, 9, 15. [157, 166]
Rules, To suspend, 4, 9, 11, 14, 15. [110]
Speaking, Leave to continue after indecorum, 4, 9. [49, 207]
Substitute (similar to amendment). [81]
Table, To lie on, 4, 9, 11, 16. [91]
Table, To take from the, 4, 9, 11, 16. [92]
Withdrawal of a motion, 4, 9. [108]

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* In negative.

† Must be made when question is first introduced, and before debate.

‡ When requiring immediate action.

§ Can be moved and entered on minute, but cannot interrupt business.

APPENDIX

1. May on Construction of Bills and Statutes
2. Closure in the United States Senate
3. Cushing on Conclusiveness of Elections
4. The Century on Ordinances
5. Action on Considerations to be Recorded

APPENDIX

MAY ON CONSTRUCTION OF BILLS AND STATUTES

Thomas Erskine May, Esq., the great British authority on the "Law, Privileges, Proceedings and Usage of Parliament," says: "The proceedings upon bills will require less explanation if it be borne in mind that all the rules in relation to questions and amendments, are applicable to the passing of bills. If bills were not a more convenient form of legislation, both houses might enact laws by agreeing to a series of resolutions, proposed without concert or combination, provided the royal assent were afterward given. In the earlier periods of the constitution of Parliament all bills were in fact prepared and agreed to in the form of petitions from the Commons, which were entered on the Rolls of Parliament, with the king's answer subjoined; and at the end of each Parliament the judges drew up these imperfect records into the form of a statute, which was entered upon the Statute Rolls. . . . But petitions from the Commons, which were originally the foundation of all laws, were ultimately superseded; and in the reign of Henry VI bills began to be introduced, in either house, in the form of complete statutes, which were passed in a manner approaching that of modern times, and received the distinct assent of the king, in the form in which they had been agreed to by both houses of Parliament. . . . The constitutional form of legislating by bill and statute, agreed to in Parliament, undoubtedly had its origin and its sanction in the reign of Henry VI."[1]

[1] Thomas Erskine May: "A Practical Treatise on the Law, Privileges, Proceedings and Usage of Parliament"; London, 1855, Third Edition, 8vo, 704 pages; pp. 359–361.

CLOSURE IN THE SENATE

For many long years the Senate of the United States was the freest debating body in the country, and while other bodies were subject to the previous question, the members of the American Senate never used the call for the previous question or considered it as permissible in its debates and deliberations, but went on with their discussions without any such parliamentary check, and the boast was that this latitude permitted and impelled the most thorough discussion of Congressional questions.

It was also a boast that this freedom in debate was not a waste of time, but that the thoroughness of inquiry and discussion at the same time brought about expeditious legislative results, and, though the previous question was not allowed, the senators had a way of providing in advance for taking a vote by agreement among themselves.

This longtime usage in the United States Senate met with the approval of the ablest senators as being a decided advantage in the deliberations of the body and in the outcome for the nation. Had it not been so, the custom could not have maintained itself so long. Wise men, who were not senators, have regarded the absence of the previous question from this one preeminent parliamentary body, as a check on hasty legislation, and no one more heartily approved this latitude of the Senate than Woodrow Wilson.

In his work on Congressional Government, he speaks of

"The Senate where no previous question utters its interrupting voice from the tongues of tyrannical committee-men, and where, consequently, talk is free to all."[1]

Then he mentions that

"An attempt was once made to bring the previous question into the practices of the Senate, but it failed of success, and so that imperative form of cutting off all

[1] Woodrow Wilson: "Congressional Government," Boston: Houghton, Mifflin & Co., 1885, 333 pp.; p. 211.

further discussion has fortunately never found a place there" (p. 211).

Commenting on this freedom from the previous question in the Senate of the United States, Mr. Wilson said:

"Still, it must be regarded as no inconsiderable addition to the usefulness of the Senate that it enjoys a much greater freedom of discussion than the House can allow itself. It permits itself a good deal of talk in public about what it is doing, and it commonly talks a great deal of sense. It is small enough to make it safe to allow individual freedom to its members, and to have at the same time such order and sense of proportions in its proceedings as is characteristic of small bodies, . . . and do what they are called to do without need of driving themselves with hurrying rules. Such rules, they seem to feel, are meant only for big assemblies which have no power of self-control. . . .

"But the Senate is small and of settled habits, and has no such bugbear to trouble it. It can afford to do without any *cloture* or previous question. . . . The House can be counted upon to waste enough time to leave some leisure to the upper chamber. . . ." (pp. 216–218).

Concluding his observations, he says:

"Still, though not much heeded, the debates of the Senate are of great value in scrutinizing and sifting matters which come up from the House. The Senate's opportunities for open and unrestricted discussion and its simple, comparatively unencumbered forms of procedure, unquestionably enable it to fulfill with very considerable success its high function as a chamber of revision."[1]

This really was a common sense and philosophic presentation of the reasons for the freedom of the Senate from the compulsion of the previous question so common in the larger lower house, and was quite sufficient to sustain the continuance of the long-established senatorial latitude in debate.

[1] Woodrow Wilson: "Congressional Government," pp. 216–219.

However, when he became President of the United States, and the Senate, instead of passing a certain measure in which he was deeply interested, talked it out up to the adjournment, he changed his attitude, and, following his manifest displeasure, many papers demanded a change in the rules of the body.

In consequence of this pressure, the Senate adopted a compromise measure, which, strictly speaking, was not the previous question, but a modified cloture which could shorten discussion. This new rule provided for the passing of a paper for signatures of senators, and, when sixteen were secured, this could force a vote on the question of limiting the debate so that on the subject before the body no senator could speak longer than one hour.

The exact wording of the new rule is as follows:

"If at any time a motion signed by sixteen Senators, to bring to a close the debate upon any pending measure is presented to the Senate, the presiding officer shall at once state the motion to the Senate, and one hour after the Senate meets on the following calendar day but one, he shall lay the motion before the Senate and direct that the Secretary call the roll, and, upon the ascertainment that a quorum is present, the presiding officer shall, without debate, submit to the Senate by an aye-and-nay vote the question:

" 'Is it the sense of the Senate that the debate shall be brought to a close?'

"And if that question shall be decided in the affirmative by a two-thirds vote of those voting, then said measure shall be the unfinished business to the exclusion of all other business until disposed of.

"Thereafter no Senator shall be entitled to speak in all more than one hour on the pending measure, the amendments thereto, and motions affecting the same, and it shall be the duty of the presiding officer to keep the time of each Senator who speaks. Except by unanimous consent, no amendment shall be in order after the vote to bring the debate to a close, unless the same has been presented and

read prior to that time. No dilatory motion or dilatory amendment, or amendment not germane shall be in order. Points of order, including questions of relevancy, and appeals from the decision of the presiding officer, shall be decided without debate."

(Senate Rule, 22, as amended Senate Journal, 234, 64-2, March 8, 1917. Senate Documents, 67th Congress, 4 Session. Washington, Government Printing Office, 1923.)

Thus the rules of the Senate were changed on an outside demand, though it could have continued its efficiency without such a departure from its tradition and law. The Senate is the highest deliberative body in the nation. It is the nation's final revisory body and needs time and not haste. It must review almost everything done by the House of Representatives, and must consider in addition many international questions. The Senators are elected to inquire, discuss, and to decide. They therefore, require an abundant opportunity, and they alone can tell when they have obtained sufficient information and are ready to vote, and the country and their consciences require that they shall make their decision without haste. Outside parties or popular clamor should never be permitted to rush the Senate to a hasty conclusion.

CUSHING ON CONCLUSIVENESS OF ELECTIONS

Cushing on Elections observes that "An election being a choice made by the requisite number of electors exercising their right of suffrage, it is an established rule, that, when an election has been effected, the right of the electors is exhausted, and they have no further power in the matter, either to revoke the election or to make a further choice. Thus it has been held, in Massachusetts, that where a valid election had been made, it could not be rendered void by a subsequent reconsideration of the choice; and, on the same principle, that an election of a member at one meeting could not be super-

seded and rendered void by the election of another person at a subsequent meeting."[1]

THE CENTURY ON ORDINANCES

A formal action in a parliamentary body may be characterized by varying titles each of which has its own specific and peculiar meaning. In municipal bodies the title **ordinance** is frequently used. As the Century Dictionary remarks: "In modern usage the term covers all the standing regulations adopted by a municipal corporation; or, in other words, the local laws and internal regulations passed by the governing body, and calculated to have permanent or continuous operation, as distinguished from resolutions, which are orders of temporary character or intended to meet a special occasion. Thus an order forbidding fireworks in the streets is an ordinance; one appropriating money for celebrating a holiday is a resolution."

ACTION ON CONSIDERATION TO BE RECORDED

Action on the question of consideration is an action by the body and therefore is part of the proceedings, and, being a part of the proceedings, is part of the history of the body and should be entered in the Journal or Minutes whether the body agrees or refuses to consider. The action is an action as much as any other act, and the record should show what proposition was presented, and by whom, who raised the question of consideration and what the vote was, and whether for or against considering.

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[1] Luther Stearns Cushing: "Law and Practice of Legislative Assemblies," (the large 8vo work), Boston: Little, Brown & Co., 6th Edition, 1874, p. 75.

INDEX

INDEX

Access to Records, 204, 217
Acclamation, 66
Action, Progressive
  On Bills, 179
Actions of Body or Committee, Must be in Legal Session, 162
Adhere, Motion to, 187, 188
Adjourn
  Motion to, 112, 113, 114
  When not in Order, 113, 114
  To Fix the Time to which to, 114
  Effect of, 115
Adjourned Meeting, 114
Adjournment
  Effect of, upon Business, 112–114
  When not in order, 113, 114
Agreement, 187
Amend, 78
  An Amendment, 80
  The Minutes, 29
Amendment, 78
  To an Amendment, 80, 81
Amendments
  Acceptance of, 80
  Debate on, 79, 80
  Forms of, 78–83
  Must be Germane, 78, 79
  Inconsistency in, 79
  In Committee, 155, 156
  On Papers divided into Paragraphs, 156
  Laying on Table, effect of, 97, 98
  Of By-Laws, 195, 196, 217
  Previous Question, limited to, 89, 90
  Stating Questions on, 80, 82
  Substitute, 81–83
  To the Rules, 110, 111, 217
  Voting on, 82, 83
Apology, 206, 207
Appeal from Decision of Chair, 103–106
Appendix, 223
Approval of Minutes, 29
Assemblies, Part II, 18, 19
Ayes and Noes (same as Yeas and Nays), 54, 56

Ballot, 62
  Reporting, 63
  Right of President on, 63
  Cast by Secretary or Teller, not proper, 66, 67
Ballots
  Blank, 63
  Bar of House, 19
  Defective, 63
Bicameral Bodies, 185
Bill and Bull, 184
Bills, 179
  Engrossing, 181–183
  May on construction of, Ap. 1)
  Passage of, 183
  Progressive Action on, 179
  Readings of, 179
Blanks
  Filling of, 125, 126
  In Balloting, 63
Boards, 18
  Reports of, 162
Bodies
  Bicameral, 185
  Ecclesiastical, Part X, 211–214
  Formal, 21
  Legal, 18
  Parliamentary, 11
  Voluntary, 17
Business
  New, 198–200
  Order of, 197–200
  Priority of, 200
  Unfinished, 197–200

By-Laws, 195, 217
Amending, 195, 196, 217

Calendars, 158, 198, 199
Call for Division of the House, 55
Call for Division of the Question, 127, 128
Call for Order of the Day. 116
Call for Previous Question. 87
Call of the House, 123
Call to Order, 104, 204, 205
Cameral, Bi-, Bodies, 185
Century on Ordinances, Ap. 4, 230
Certificates of Election, 17, 18, 22, 23
Chair, The, 39
Addressing, 40
Recognition by, 40, 41
Sustaining, 105
Chairman, 20, 21, 61, 154
Chambers, Two, 185
Charters, 194
Clerk, 21, 26, 27
Closure in Senate, Ap. 2, 226
Commissioners, 175, 176
Commissions, 175
Commit, 83, 84
Debate on Motion to, 84
Commitment, 83
Committee of Conference, 186
Committee of the Whole, 163
Chairman of, 164, 165
Clerk of, 165
Meets, 166
Motions, cannot make, 166, 167
Proceedings in, 166–168
Quorum of, 166
Quorum, If no, 166
Report of, 168, 169
Rules governing, 166, 167
Things, cannot do, 166, 167
To rise, 166
Committee of the Whole House, 163
Committee of the Whole House on the State of the Union, 169, 170
Resolved into, 164
Committees and Commissions, Part VI
Committees, 151
Act only, when assembled, 155, 156
Appointing, 152
Business in, 155, 156
Chairman of, 154, 157, 159, Right in debate, 160
Composition of, 152
Consider what is committed, 154
Discharge of, 155, 158
Functions of, 151, 154
Instructions to, 155
Organization of, 154
Quasi, 171
Report of, discharges, 157, 158
Reporter for, 157–159
Reports of, 156, 157
Accepting, 159
Adopting, 159
Presenting, 157
Receiving, 157
Minority, 160–162
Rise, 157
Select, 151, 152
Special, 151, 152
Standing, 151, 152
When cannot sit, 154
When to meet, 154
Composition of Parliamentary Bodies, 17
Concur, 186, 187
Condensed Table of Motions, 220, 221
Conference Committee, 186
A Free, 186
Proceedings in, 186–188
Report of, 187
Cannot be amended, 187
Conferences, 18, 186
Consent
General, 52, 53
Unanimous, 52, 53
Consideration
The Question of, 102
Objection to, 102
Informal, 173
To be recorded, Ap. 5, 230
Consistories, 18
Constitutions, 194, 195
Contents, 3, 4, 5
Conventions, 17, 18

CONVOCATIONS, 18
CREDENTIALS, 17, 18, 22, 23
CUSHING ON ELECTIONS, Ap. 3, 229
DAY, ORDERS OF, 116–118, 142, 196
DEBATABLE QUESTIONS (see Table) 220, 221
  UNDEBATABLE QUESTIONS (see Table) 220, 221
DEBATE, 45
  Closing, 48
  Conduct in, 48, 49
  Dividing time in, 47
  Indecorum in, 48, 49, 203, 206
  Limiting time of and in, 48
    Not in Senate, 91
  Number of speeches in, 46
  On Amendments, 79, 80
  Proprieties in, 48, 49
  Quorum in, 34
  Relevancy in, 48
  Renewal of, 50
    After vote, 50
    After reconsideration, 133
  In Committee, 151, 155
  In Committee of the Whole, 167, 169, 170
DECISION, THE, 52–63
DECORUM, 203–208
DELIBERATIVE BODY, 45
DIRECTORS, 18
DISCHARGE OF COMMITTEES, 155
DISCUSSION, 45
  Renewal of, 50
DISORDER, 204–208
DIVIDE, MOTION TO, 59
DIVIDING TIME OF SPEAKER IN DEBATE, 47
DIVISION OF THE HOUSE, 55
  Of the Question, 59, 127
  Call for, 127, 128
  Demand for, 127, 128
DOUBLE MOTIONS, 90
DUTIES OF MEMBERS, 203, 204
  Officers, 24–30

ECCLESIASTICAL BODIES, Part X, 211–214
  Parliamentary Practice in, 211
  Limitations of Power in, 214
ELECTION OF OFFICERS, 64, 65
ELECTIONS, 64, 65
  Cannot be reconsidered, 68
  Cushing, Ap. 3
  May be nullified, 68
    By error in count, 68
    By fraud, 68
  Requisite vote in, 65
ENGROSSING, 181–183
EXPUNGING, 217

FILLING BLANKS, 125, 126
FIRST READING, 179
FIXING ORDER OF THE DAY, 116–118, 142, 196
FIXING TIME TO WHICH TO ADJOURN, 114, 115
FLOOR, THE, 40
  Member cannot be taken from, 44
  How to obtain, 40, 41
  Title to, 43, 44
FRAUD, 68
FREE CONFERENCE, 186
  Gathering, The, 19
  Gavel, The, 25
  Germane Amendments, 78, 79

HONORARY MEMBERS, 18
HOUSE, CALL OF THE, 123
HOUSES, TWO, 185–188

INCIDENTAL QUESTIONS, 74–76, 102
INDECORUM, 203–208
INDEFINITE POSTPONEMENT, 86
INFORMAL CONSIDERATION, 173
  Remarks, 50
INQUIRIES, PARLIAMENTARY, 124
INSIST, MOTION TO, 187, 188
INSPECTION OF JOURNALS, RIGHT OF, 204, 217
INSTRUCTIONS TO COMMITTEES, 155

JEFFERSON, ACTION IN LEGAL SESSION, 162
  On uniform procedure, 14
JOURNAL, 27–30
  Custody of, 29, 217
  Members right to inspect, 204, 217

LAW, 13, 14
  Parliamentary, 13, 14
    American, 13
    British, 13
    Common, 13, 14
    General, 13, 14
LAWS, BY-, Part VIII, 195, 196
LAY (or LIE)
  On the Table, motion to, 91
  Applied to amendment, 97–99
  Carries all that pertains, 97–99
LEGAL BODIES, 18

MAIN QUESTION, 73, 74, 140
MAJORITY VOTE, 53, 65
MAY ON BILLS AND STATUTES, Ap. 1, 225
  On British Parliament, 12
MEMBERS
  Classes of, 18
  Duties of, 203, 204
  Rights of, 204
MEMBERSHIP, 18, 19, 22, 23
  Voluntary, 20
MEETINGS, ADJOURNED, 191, 192
  Mass, 20, 21
  Regular, 191
  Special, 191, 192
    Due notification required, 192, 193
  Stated, 191
METHODS, SPECIAL, Part VII, 179, 185
MINORITY, 160
  Report of, 160–162
  Right of, 160–162
MINUTES, 27, 28, 197, 217
  Approval of, 29
MISCELLANEA, 217
MISCELLANEOUS QUESTIONS, 75, 123
MOTIONS, 42, 71–73
  Action without, 52, 53
  To adhere, 187, 188
  To concur, 186, 187
  Condensed Table of, 220, 221
  Classification of, 74–77
  Double, objectionable, 90
  General Classification of, 74, 75
  Specific Classification, 76, 77
  To insist, 187, 188
  To nonconcur, 186, 187
  Seconding, 42
  Secondary, 74
  Subsidiary, 78, 141, 142
  Incidental, 75, 102, 141, 142
  Miscellaneous, 75, 123
  Privileged, 75, 112–122
MOTIONS
  Maker of may vote against his own, 58
  Maker of cannot speak against, 58
  Modification of by mover, 80
  Precedence of, 139
  Rank of, 143
  To recede, 187
  Renewal of, 124
  To be put into writing, 72, 73
  Withdrawal of, 108, 109, 110

NOMINATIONS, 20, 64, 126
  Need not be seconded, 127
  Closing, 127
NONCONCUR
  Motion to, 186, 187

OBJECTION
  To consideration of a question, 102
  To proposed business, 103
  To change of order, 118
OFFICERS, 24–30
ORDER, 104, 203
  Call to, 104, 205
  Questions of (Appeal), 103–105
  Of Business, 197–200
  Rules of, 196
  Take up a question out of its proper, 118
  Take up consideration of Paragraphs, 60, 61, 156
ORDERS
  The Day, 116–118, 142, 196
  Effect of, 117, 118
  General, 116–118, 142
  Order of consideration of, 118
  Special, 117, 196
ORGANIZATION, THE, 20–23
  Of Committees, 154, 165
  Permanent, 23
  Temporary, 21, 22

PAPERS, READING OF, 106–108
PARLIAMENT, 11
PARLIAMENTARY ASSEMBLY, Part II
  Body, 11, 12
    Powers of, 205–208
    A Legal, 18
    Composition of, 17, 18
  Dignity, 51
  Law, 13
    Basis of, 14
    Necessary, 14
    General, 13
    Special, 13, 14
    Thoroughness in, 217
  Practice, 13
  Precedence, Part V
  Principles, Part I
  Procedure, Part III
    In Ecclesiastical Bodies, 211–214
  Inquiries, 124
  Questions, Part IV
    Sources, 12
  Usage, 14
PASSAGE OF BILLS, 183
PERMANENT ORGANIZATION, 23
POLITICAL BODIES, 17
POSTPONE, MOTION TO, 85, 86
  To a time (or day), certain, 85
  Indefinitely, 86, 142
  Orders, 118
POSTPONEMENT
  Effect of, 85, 86
  Indefinite, 86
  To a Day Certain, 85
PREAMBLE, 72
PRECEDENCE, 139
  Parliamentary, Part V
    Of Motions, 139–148
PREFACE, 7
PRESIDENT, 24–26
  pro tempore, 25, 26
  Vice, 26
PRESIDING OFFICERS, 20, 21
  Titles of, 24
  Duties of, 24
  Rights of, 26
PREVIOUS QUESTION, 87
  Effect of, 87–90
  May be limited to amendment, 89, 90
  Order of Voting, after ordered, 89
  Reconsideration after, 91
PRIMARY MOTION, 74
PRINCIPAL MOTION, 74, 140, 142
PRIORITY OF BUSINESS, 105
  Questions relating to, 105
PRIORITY OF MOTIONS (see Precedence)
PRIVILEGE, QUESTIONS OF, 118, 122
  Of the House (body), 118
  Of the Member (personal), 120
PRIVILEGED QUESTIONS, 74, 77, 112, 141, 142
PROCEEDINGS IN BICAMERAL BODIES, 185–188
PROGRESSIVE ACTION ON BILLS, 179
PUTTING THE QUESTION, 52

QUASI-COMMITTEES, 171
QUESTION
  Division of, 59, 127, 128
  Division of, Demand for, 127,
  Division of, Demand for, 127, 128
  The Main, 73, 74
  Putting the, 52
  Stating the, 43
QUESTIONS (Motions), 42, 71–77
  Debatable (see Table, 220, 221
  Incidental, 75, 76, 102
  Miscellaneous, 75, 77, 122
  Privileged, 75, 112
  Subsidiary, 75, 76, 78
  Of Privilege, 75, 118–120
  Undebatable (see Table), 220, 221
QUORUM, 31
  Actual, 123
  Assumed, 123
  Determining a, 32
  Less than a, 34, 35
  Effect of no, 123, 124
  Effect of no, in debate, 34

READING OF PAPERS, 106, 107, 108
READINGS, FIRST, SECOND, AND THIRD, 179
  Advantage of three, 183, 184

Reading Motion by, 187
Reconsideration of a Question, 157, 158
Recorded Vote, 74
Reconsideration of the Order, 40, 42, 46, 48
Recorded Division, 85
Recommit, 128
  When may move to, 129
  Motion to [illegible] time, 130, 131
  Cannot be amended, 133
Relative Motion, 128
  Of Previous Question, 97
  Effect of, 129, 130
  In Committee, 136
  Of question decided under the previous question, 103
  When can be made, 128–130, 148
  When cannot be made, 128, 132
  When not debatable, 133
Reconsidered, Questions that cannot be, 182
Records (Minutes, Journal), 27, 28, 204, 217
  Access to, 204, 217
Refer (committ, reference), 86
Relevancy in Debate, 48
Religious Bodies, 18, 21, 211–214
Remarks, Informal, 50
Renewal of a Motion, 124
  Of debate after a vote, 50
Repeal, 135
Reports
  Of Committees, 156–162
  Committee of Whole, 168, 169
  Minority, 160, 161, 162
  Resolution accompanying, 159
  Recommitting of, 159
Reprint, 136, 138
Resolutions, 71, 72
  Classification of, 72
Rights, Powers and Duties, Part IX
  Of Members, 118–121, 205, 214
  Of House, 118–122, 206
Rise (in Committee for adjourn), 157, 166
Rules, 27, 28
Rules of Order, 27, 28, 129
Rules, 207
  Of Order, 208
  Standing, 211, 217
  Standing, 209
  Suspension of, 141, 214

Scope, 47
Secret, 32
Secret Sessions, 173, 182
Secretary Signature, 73
Secretary Minutes, 27
  Duties, 42
  Minutes shall be read previous Order, 28, 29
Secretary of, 26, 27, 207
Select Committees, 162, 202
Selection Committee, 30
  Committee Chairman votes on, 30
  Democrats on, 30
  Terms upon, 30
Senators, 101
Seniority, Decision of House Staff, 208
Shall, Decision by Division, 84, 205
Sheriff of House, 30, 36
Speaker, 21
  Leave for absence after adjournment, 44
Speaking, 45–50
  Against time, 50
  Decorum in, 48
Special Committees, 156, 162
Special Majority Vote, 61
  Orders, 177, 206
Standing Committees, 156, 162
  Rules, 196
Standing Vote Question, 65
Stand Still Motion to, 78
Stated time and Hours, 34
Statements, Misleading, 54, 55, 56
Substitute, 86, 87
Suspension of Rules, 140, 141
Suspension Clause, Rule, 140
Sworn, 18

Table, 61
Table of Motions, 220, 221
Table, To Lay on the, 91

Abused motion, 95, 96
Affirmative vote on, cannot be reconsidered, 93
After Previous Question, 93
Effect of, 93, 94
Form of Motion, 93
An Amendment, 97, 98
A Temporary disposal, 94, 95
To Take from the, 92, 94
TACIT SECONDING, 42
TELLERS OF VOTES, 54, 56, 65
Vote by, 54, 56, 65
TEMPORARY ORGANIZATION, 22
THIRD READING, 179, 181
THOROUGHNESS, PARLIAMENTARY, 217, 218
THREE READINGS, 179, 183
TIME, TO ADJOURN TO, 114, 115
Of Debater and Debate, 46–48, 91
TITLES OF PRESIDING OFFICERS, 24
Clerk, 27
TREASURER, 30
TWO HOUSES, 185
TWO-THIRDS VOTE, 53, 58, (Table), 220, 221

UNANIMOUS CONSENT, 52, 53
UNDEBATABLE QUESTIONS (see Table), 220, 221
UNFINISHED BUSINESS, 197–200
Effect of Postponement upon, 85, 86
Effect of Adjournment upon, 112–114

VICE-PRESIDENT, 26
VOTE, Ballot, 26, 62
Casting, 57, 58
Change of, 58
Majority, 53, 65
Right of Chair on ballot, 63
Tie, 57, 58
Two-thirds, 53, 58 (Table), 220, 221
When Chair can, 26, 57, 58, 63
Yea and Nay, 54, 56
VOTING, 52
Action without, 52, 53
Against own motion, 58
By acclamation, 66
Forms of, 53, 54
By Ayes and Noes, 54, 56, 57
By Ballot, 62
By hand, 53, 54
By standing, 54
By tellers, 54, 56, 65
By voice, 53, 54
Yeas and Nays, 54, 56, 57
For one not nominated, 126
On Amendments, 82, 83
On Substitute, 82, 83
Renewal of Discussion after, 50
Rights of Chair in, 26, 57, 58, 63

WHOLE, COMMITTEE OF THE, 163–170
Rules governing, 166
WITHDRAWAL OF A MOTION, 108
WORDS, DISORDERLY, 206–208

YEAS AND NAYS, 54, 56, 57

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